

Ofcom Broadcast Bulletin

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Introduction

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes which broadcasting licensees are required to comply. These include:

- a) Ofcom's Broadcasting Code ("the Code") which 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/>
- b) the Code on the Scheduling of Television Advertising ("COSTA") which came into effect on 1 September 2008 and contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken. COSTA can be found at http://www.ofcom.org.uk/tv/ifi/codes/code_adv/tacode.pdf.
- c) other codes and requirements that may also apply to broadcasters, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code. Links to all these codes can be found at <http://www.ofcom.org.uk/tv/ifi/codes/>

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

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

Standards cases

Notice of Sanction

DM Digital Television Limited

Health is Wealth, DM Digital, 8 March 2007, 07:45

On 28 October 2008, Ofcom published its decision to impose a statutory sanction on DM Digital Television Limited in respect of its service DM Digital. The sanction was for breaches of the following Code Rules:

- Rule 2.1 (generally accepted standards must be applied to the contents of television services so as to provide adequate protection for the public from harmful material);
- Rule 9.4 (sponsor must not influence content);
- Rule 9.5 (no promotional reference to sponsor);
- Rule 9.6 (clear identification of sponsorship by name/logo); and
- Rule 9.7 (sponsorship relationship must be transparent).

Ofcom found that these Rules were breached as follows:

- During the programme *Health is Wealth*, a homeopathic practitioner, Dr Professor Mohammed Jamil Jilu (“Dr Jamil”), was allowed to make unsubstantiated and potentially dangerous claims regarding the ability of his homeopathic treatments to cure cancer and other serious illnesses, such as diabetes and hepatitis. This could have resulted in viewers with treatable serious medical problems choosing to dispense with orthodox medical treatment in favour of Dr Jamil’s treatments. This risked serious harm to viewers (breach of Rule 2.1);
- Dr Jamil was the sponsor of *Health is Wealth* and had entirely determined the content of the programme. The channel’s editorial independence had therefore been compromised (breach of Rule 9.4);
- The programme was used to promote Dr Jamil’s homeopathic health clinic and associated treatments and services (breach of Rule 9.5); and
- The programme’s sponsorship and the relationship between the sponsor and the programme were not made clear to viewers (breach of Rules 9.6 and 9.7).

For the reasons set out in the adjudication Ofcom imposed a financial penalty of **£15,000** on DM Digital Television Ltd (payable to HM Paymaster General) and directed it to broadcast a statement of Ofcom’s findings in a form to be determined by Ofcom on two specified occasions. The full adjudication is available at:

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

There are two further cases in this bulletin (see pages 5-7) where Ofcom has recorded breaches of the Code in respect of DM Digital. Ofcom has very serious concerns about this Licensee and its compliance ability. Ofcom is requiring DM Digital to attend a meeting at Ofcom. Any further breaches of the Broadcasting Code will be taken extremely seriously and in such circumstances Ofcom will consider further and greater regulator action.

In Breach

Premium rate services promoted in programme content

DM Digital, various dates in 2007

Introduction

On 17 January 2008, PhonepayPlus recorded breaches of its Code of Practice against a premium rate service provider in respect of a live tarot premium rate telephone service promoted in a programme broadcast on DM Digital on various dates in 2007. These breaches related to not holding the correct prior permission certificate for a live tarot service, keeping callers on hold for lengthy periods of time and lack of clear on-screen pricing information. PhonepayPlus fined the service provider £25,000.

Rule 10.10 of the Code requires that any use of premium rate numbers must comply with the Code of Practice issued by PhonepayPlus (formerly known as ICSTIS).

Response

In response to Ofcom's inquiries, the broadcaster advised that it had taken specific compliance steps to ensure that the problems identified by PhonepayPlus did not occur again.

Decision

Notwithstanding the broadcaster's assurances, Ofcom was concerned that the broadcaster had failed to ensure sufficient oversight of premium rate services ("PRS") promoted within its programmes and to understand its own responsibilities regarding those services. Ofcom also noted that viewers calling the tarot service were kept on hold for lengthy periods of time and suffered financial loss. Since the use of PRS in this case did not comply with the PhonepayPlus Code there was a breach of Rule 10.10.

This is a serious breach of the Code and will be held on record.

Breach of Rule 10.10 of the Code

Good Morning Manchester

DM Digital, 11 & 12 February 2008, 08:00

Introduction

Good Morning Manchester is a weekday live interactive morning programme, which includes extended interviews and a regular feature concerning general health and wellbeing issues. The premium rate number for viewers to call if they wish to participate in the programme is displayed on screen throughout the programme.

On 11 and 12 February 2008, the programme's two presenters interviewed a herbalist and homeopath, Hakeem Shafqat Ali Shah, who also gave general advice to callers. Throughout the extended interview a large banner was displayed on screen intermittently, stating Mr Shah's contact details (mobile and landline telephone numbers and full postal address). These details also appeared regularly in a scrolling caption at the bottom of the screen, which ran throughout the programmes.

A viewer asked Ofcom whether the display of such information was permissible.

When reviewing the broadcasts, Ofcom also noted the following:

- one of the presenters stated Mr Shah's full contact details on air;
- Mr Shah invited a caller to contact him after the programme had ended; and
- the on-screen scrolling caption included both programme-related messages and an advertising message (i.e. the promotion of sponsorship opportunities on DM Digital, including full contact details).

We therefore asked the broadcaster for its comments with regard to the following:

Code Rules

Rule 10.2 – "Broadcasters must ensure that the advertising and programme elements of a service are kept separate";

Rule 10.4 – "No undue prominence may be given in any programme to a product or service"; and

Rule 10.5 – "Product placement is prohibited";

Rules on the Amount and Distribution of Advertising ("RADA"¹)

Rule 1.2 – "In any one clock hour there must be no more than 12 minutes of advertising spots and/or teleshopping spots."

Response

DM Digital said that it provided guests' contact details on air "for certain topics", as it was "beneficial to [its] audience and relevant to the editorial content of the programme." The broadcaster added that, in this case, such information was "displayed with the guest's name at intervals in order to not give undue prominence" and that Mr Shah "did not pay to be on the programme or to have his practice mentioned."

¹ At the time of the broadcasts in question RADA was in force. On 1 September 2008, RADA was replaced by the Code on the Scheduling of Television Advertising ("COSTA" http://www.ofcom.org.uk/tv/ifi/codes/code_adv/tacode.pdf).

With regard to the on-screen promotion of sponsorship opportunities on DM Digital, the broadcaster said that it did not believe the provision of its own contact details to be advertising content. It added that, in any event, the information was kept separate from the programme, as it ran in the scroll. The broadcaster confirmed that it generally broadcast between 9 and 12 minutes of advertising spots in any clock hour, adding that scrolled information did not generally contain advertising.

Decision

Generally, when introducing and/or interviewing a guest, it is editorially justified to explain their appearance in a programme. This might include, for instance, stating or describing their relevant expertise, or if appropriate briefly crediting the company or organisation they represent. However, in this case, after the presenters had introduced Mr Shah, the programme regularly provided viewers with his full contact details. These were not only mentioned by a presenter, but also intermittently displayed on-screen in a large banner and regularly scrolled across the screen. In addition, Mr Shah solicited a caller to contact him later.

Ofcom has a duty to ensure that programmes are not distorted for commercial purposes. We accept that a studio guest's contact details *may* sometimes be useful for viewers and therefore editorially justified. For example, broadcasters can generally make a brief passing reference to such details being available on their own [channel] website, if it is editorially justified to do so. However, in this case, Ofcom can find no editorial justification for the regular and frequent provision of Mr Shah's full contact details throughout the interviews. His services were therefore given undue prominence within the programmes, in breach of Rule 10.4 of the Code.

Ofcom notes the broadcaster's view that the on-screen promotion of sponsorship opportunities on DM Digital was not advertising content. However, we disagree. A broadcaster promoting sponsorship opportunities is advertising. The licensee is advertising a service where a third party can promote its goods or services in return for payment. Programme sponsorship is a commercial opportunity, not only for potential sponsors but also for the broadcaster. As such, its promotion is advertising content, which should be clearly separated from programming. In this case, the permanent scroll (which ran throughout the programmes) featured not only programme-related messages (e.g. alternative premium rate numbers – for participation in the programme from other countries – and the promotion of the channel's *Valentine Special*), but also DM Digital's promotion of programme sponsorship opportunities ("*For sponsorship contact +44... or email info@dmdigitaltv.co.uk... For Pakistan +92...*"). The content of the scroll was therefore a mix of programme and advertising elements of DM Digital's service, which were not clearly separated, in breach of Rule 10.2 of the Code.

The recordings provided by DM Digital did not contain the advertising breaks featured in or around *Good Morning Manchester*. Nevertheless, the broadcaster confirmed that less than 9 minutes of advertising spots were unlikely to occur in any clock hour of its output. In this case, given also the regular advertisement spots for DM Digital programme sponsorship opportunities contained in the on-screen scroll, it is clear that the broadcaster had included more than 12 minutes of advertising spots in the clock hour (08:00-09:00) during which the programmes were broadcast, in breach of Rule 1.2 of RADA.

Breach of Rules 10.2 and 10.4 of the Code Breach of Rule 1.2 of RADA

“Shine a Light” competition

The Morning After, Kerrang! Radio (West Midlands), 2 April 2008, 08:20

Introduction

During this breakfast show the presenter, Tim Shaw, ran a competition to win two tickets to attend the premiere in London (that evening) of the film “Shine a Light”, a feature-length documentary on the Rolling Stones. Listeners were invited to call a standard rate (0845...) telephone number for a chance to enter. They were told that the first listener to be put through to the studio and answer a question correctly would win the tickets. The presenter said that he wanted a Rolling Stones fan to win and his co-presenter then posed the question, “*Where was Brian Jones born?*” The first person aired, answered the question correctly, and was awarded the prize.

A complainant claimed that the presenter had planned to award the tickets to a friend, pre-recorded his ‘entry’ and played it ‘as live’, instead of running a genuine competition.

Rule 2.11 of the Code requires that “competitions should be conducted fairly...”. We therefore asked Bauer Radio, which runs Kerrang! Radio, for its comments on the matter.

Response

Bauer Radio (“Bauer” or “the broadcaster”) said that as soon as it had received the allegation from Ofcom it suspended the presenter, interviewed each employee connected with the competition (i.e. the presenter, the co-presenter and the programme’s producer) and visited the winner, to verify “an accurate record of events.”

The broadcaster said the presenter concerned was experienced but had admitted that he had run the competition as alleged. However, he had told Bauer that he believed he was “doing the right thing by rewarding a loyal and deserving listener”, who he knew both suffered from a chronic and debilitating illness and was a fan of the Rolling Stones.

Bauer said that the presenter had contacted the listener the day before the broadcast to let him know there would be a feature of interest to him the following morning. The presenter explained the mechanic of the competition to him but the listener said that, due to his medical condition, he was not confident that he would be able to respond quickly on air. To show the listener that he was capable of a quick response, the presenter decided to record him as if on air and play it back to him. However, this did not convince the listener. Wishing to give him the opportunity to win that he was denying himself, the presenter decided to play the recording on air the following morning, ‘as live’, pretending that he was the first caller to the studio. The presenter told Bauer that he had had no intention of using the recording unless the listener called on the day. However, after his co-presenter had asked the question, the presenter noted that no calls were lined up for selection and decided to play it. During playback he noticed two attempted calls but answered neither.

Bauer said that it had “rigorous compliance procedures in place to ensure that all ... on-air staff are fully conversant with the Code rules.” This included “regular on-site training and refresher sessions [which the presenter had attended], circulars issued to all staff highlighting regulatory and compliance issues as they arise” and “comprehensive written guidance specifically about competitions, which included

precise references to the requirement that all competitions must be conducted fairly and transparently...”, with a checklist to help ensure this.

Bauer said that the presenter had acted alone. His co-presenter was relatively inexperienced and had not realised what had happened. Also, while the programme’s producer had agreed the competition mechanic with the presenter the previous day, she had left the studio for a short period, during which the feature had been broadcast. Bauer noted that the presenter’s misguided actions had been well-intentioned. Nevertheless, it accepted that he had had considerable time to reflect on his proposed action after recording the output the previous day. Bauer was therefore extremely disappointed that a presenter of his experience should have “ignored or overlooked the rules and damaged the trust between broadcaster and audience.”

On 9 May 2008 Kerrang! Radio broadcast an apology hourly throughout daytime and the presenter was dismissed.

Decision

Broadcasters must at all times ensure that the audience is not misled as to the fair conduct of an audience competition. It is never acceptable for a presenter to intervene in the operation of a competition in a way likely to disadvantage any potential entrants. Broadcasters must therefore ensure that employees responsible for conducting competitions are fully aware of Code requirements and the specific issues of trust involved i.e. between broadcaster and audience, presenter and audience, and, as highlighted in this case, presenter and broadcaster.

In this instance, the broadcaster had clearly intended that tickets for the premiere of the film, “Shine a Light” were awarded as a competition prize and the presenter was aware of this. However well-intentioned the presenter’s intervention may have been in these particular circumstances, his decision to ensure a specific winner was not only in contravention of the competition’s terms and conditions, but was also a serious breach of trust with the audience.

Further, Ofcom noted that the presenter had also explained his decision to play the pre-recorded content on the basis that there were no other callers lined up at the time who could be put to air. However given that the time between the question being asked on air and the pre-recorded entry being broadcast was approximately 13 seconds, Ofcom considered that other listeners would not yet have had sufficient time to attempt to enter the competition, as evidenced by calls being lined up for selection *after* the presenter’s intervention.

The competition was therefore conducted unfairly, in breach of Rule 2.11 of the Code.

The breach of audience trust by the presenter intervening in the operation of a broadcast competition in this way – regardless of the circumstances in which it occurs – has the potential to cause considerable listener harm. Ofcom considered referring this case to the Content Sanctions Committee for the imposition of a statutory sanction. However, we noted that, on this occasion, consumer harm was limited, as no calls were answered. Further, on receiving the allegation made to Ofcom, the broadcaster took swift action to investigate fully and resolve the matter, including the regular broadcast of an appropriate apology. Nevertheless, Ofcom puts Kerrang! Radio on notice that it is likely to take further regulatory action in the event of any similar breach of Rule 2.11 of the Code.

Breach of Rule 2.11

Dickinson's Real Deal

STV, 27 June 2008, 14:00

Introduction

Dickinson's Real Deal is a daytime antique-themed programme broadcast on the ITV network and shown a week later on STV. Each edition includes a viewer competition to win the sum of money that a particular item fetches at auction. Entry is via a premium rate telephone number or text message.

During STV's repeat broadcast of this programme, a caption was displayed across the bottom of the screen to advise viewers that the competition was closed. Two viewers complained that since the telephone number was still clearly legible and read out on air, and the line was in operation at the time of the repeat broadcast on STV (for the subsequent edition's competition, broadcast simultaneously on ITV), the caption was insufficient to prevent viewers from attempting to enter that programme's competition which had now, in fact, been concluded.

Ofcom asked STV for its comments under Rule 2.11 of the Code which states that "competitions should be conducted fairly" and "rules should be clear and appropriately made known".

Response

STV explained that while it considered covering the full screen so that the telephone number was obscured, it opted for a significantly sized visual message which covered one quarter of the screen and stated "*the competition is closed*" to make it clear that the competition was indeed, closed. In its view, this sufficiently informed its audience that they should not call and as such, the fact the line was live did not create any issue of harm.

STV added that it has not received any complaints that suggested viewers had been misled.

Decision

Ofcom acknowledges the measures taken by the broadcaster to minimise the potential for viewers to suffer material harm. However, the guidance¹ to Rule 2.11 advises that "text stating 'pre-recorded' is likely to be insufficient unless the telephone line is dead or the number on screen is illegible",

While recognising that the advice "*competition is closed*" contained in the on-screen caption was more informative than merely indicating that the material was pre-recorded, Ofcom is concerned that the premium rate telephone line promoted for the programme's competition was neither obscured nor inactive. It therefore considers that the caption may have been insufficient in preventing viewers from attempting to enter a concluded competition.

Ofcom expects all broadcasters to exercise extreme caution in the use of premium rate services in programmes.

Breach of Rule 2.11

¹ This guidance is available at <http://www.ofcom.org.uk/tv/ifi/guidance/bguidance>

Ayurvedic Nature Cure Sponsorship

Maru Gujarat, MATV, 20 August 2008, 19:00

Introduction

MATV provides a news and family entertainment service for the Asian community. During routine sampling of the channel's output, it was noted that a sponsorship credit for the programme *Maru Gujarat* appeared to contain advertising claims for the hair loss treatments provided by its sponsor, Ayurvedic Nature Cure.

The credit included the claim, *"We specialise in the prevention of hair loss and provide regrowth solutions"*. It also provided the company's address, telephone number, email address and website address. Several products which appear to be used or sold by Ayurvedic Nature Cure were shown, as well as 'before and after' pictures of hair loss treatment. The voice over stated, *"Are you suffering from hair problems? We have the most effective products and treatments available. Initial consultation is free. For more information contact Ayurvedic Nature Care - 0161 766 2700"*.

Ofcom asked the broadcaster for comments with regard to Rule 9.13 of the Code which states, "Sponsorship must be clearly separated from advertising. Sponsor credits must not contain advertising messages or calls to action. In particular, credits must not encourage the purchase or rental of the products or services of the sponsor or a third party".

Response

MATV claimed that there were no sales messages in the "advertisement", but that there was a voice over encouraging viewers to contact the company if they suffered from hair loss.

Decision

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

Ofcom's published guidance states that sponsors may include basic contact details in sponsorship credits. If sponsor credits contain contact details, these should include the minimum information necessary to allow viewers to make initial contact with the sponsor should they so wish. Contact details may include a description of the means of contact (e.g. tel:, text:) but must not invite or exhort viewers to contact the sponsor. The guidance also states that any direct appeals to the viewer to buy or try the sponsor's goods or services or to contact the sponsor for more information are likely to breach Rule 9.13.

This particular sponsor credit included the company's address, telephone number, email address and website address, which we considered to be an excessive amount of contact information. This, taken together with the references to the sponsor's products and services (e.g. *"we have the most effective products and treatments available"* and *"initial consultation is free"*) and the call to action (*"for more information*

contact Ayurvedic Nature Cure - 0161 766 2700”), were clear advertising messages included to promote Ayurvedic Nature Cure.

Ofcom judged that the sponsorship credit contained advertising messages, including claims for the efficacy of the products. The inclusion of the advertising messages within the credit was unacceptable and in breach of Rule 9.13.

Rule 9.3 of the Code requires sponsorship to comply with the advertising content rules. In this case, because no advertising messages should have appeared in the sponsorship credit, Ofcom did not assess the substantiation supplied to support the claims made in the advertising messages. However, Ofcom did note that Ervamatrin - one of the products which appeared in the sponsorship credit - was the subject of two adjudications¹ by the Advertising Standards Authority (“ASA”). The ASA found the inclusion of Ervamatrin in advertisements broadcast on other television channels to be in breach of the Broadcast Committee of Advertising Practice’s (“BCAP”) Television Advertising Standards Code and concluded that Ervamatrin should not be advertised without adequate substantiation of the claims made about it.

Breach of Rule 9.13

¹ The full adjudications can be found at:
http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_42384.htm and
http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_44024.htm

Scott Mills

Radio 1, 12 August 2008, 16:00

Introduction

A listener complained about an item called "*Badly Bleeped TV*" - a regular feature in this radio programme, in which extracts from TV or radio are played with words 'bleeped' out. The words themselves are later revealed as being not offensive. However, the remaining beginning and ending sounds of the words give the impression that the 'bleep' is masking an offensive word, or create the beginning and end sound of an offensive word on either side of the 'bleep'.

On this occasion, two of the clips included words that began with 'f' and these were edited in such a way that the listener believed that he had heard the word "fuck".

Ofcom wrote to the BBC for its comments under Rule 1.14 of the Code (the most offensive language must not be broadcast before the watershed or when children are particularly likely to be listening).

Response

The BBC responded that "*Badly Bleeped TV*" is one of the more popular items on *Scott Mills* and that it considered that the item is in line with the level of satire and humour that the programme's audience would expect from the show. It acknowledged that the feature is somewhat "risqué". However it maintained that the words omitted from the extracts are "entirely innocuous" in nature, with the humour of the item resting in the listeners recognising in their minds a similarity between the remaining parts of the 'bleeped' word and a potentially offensive word. It belongs to "the saucy seaside postcard tradition of comedy, than to anything more offensive".

The BBC said that the words that were 'bleeped', as referred to by the complainant, were "fated to meet" and "fantastic". The word "fuck" was therefore not used and the words that were 'bleeped' bore no resemblance to that word. It said the real missing words were revealed very quickly, leaving the listener in no doubt as to what was omitted.

Decision

Ofcom accepts that the feature itself was in keeping with the irreverent humour of the *Scott Mills* show and that its suggestive style was likely to have been in line with the expectations of regular listeners. A variety of 'bleeped' words were included which gave the first impression of being something offensive, but which it transpired were innocent. In these cases, no offence could be caused to the audience since the potentially offensive words were not audible.

In respect of the complaint, Ofcom considered the two words that began with 'f'.

As regards the first instance, Ofcom noted that while listeners had been led to believe the word "fucked" was the missing word, the word "fucked" was not clearly audible.

However in relation to the second word in the broadcast which began with an 'f', Ofcom noted that the beginning and end sounds of the 'bleeped' word were 'f' at the

beginning, and a strong 'ck' after the 'bleep'. This was played twice and clearly - for all intents and purposes - sounded like the word "fuck".

Ofcom research¹ has demonstrated that the word "fuck" and its derivatives are considered by most people as examples of the most offensive language. Rule 1.14 does not allow for editorial justification in the use of such language. In this instance, the programme was broadcast at 16:00, during school holidays, and was therefore on air at a time when children were likely to be listening.

Ofcom found that, by broadcasting a word that had been purposefully edited to sound identical to the word "fuck", the programme was in breach of Rule 1.14 of the Code.

Breach of Rule 1.14

¹ Language and Sexual Imagery in Broadcasting: A Contextual Investigation (2005)
<http://www.ofcom.org.uk/research/radio/reports/bcr/language.pdf>

Resolved

After You've Gone

BBC1, 28 July 2008, 19:30

Introduction

After You've Gone is a comedy series featuring the character Jimmy, whose mother-in-law has moved in with the family after his divorce.

In this episode Jimmy has a painful hernia and is unable to move off the sofa. In the scene in question, Jimmy craves a sweet biscuit but his mother-in-law, Diana, leaves him with a healthier rice cake to eat and his prescription painkillers in a bottle. She advises him to take two tablets every four hours. After Diana has left the house Jimmy looks at the tablet bottle and says "*these are bound to have some sugar in them*" and proceeds to shake out a handful of tablets and swallow them. He then swallows another handful.

In the next scene, Jimmy wakes disorientated and under the influence of the overdose of tablets. In his drug-induced state, he is shown to be in a mellow and relaxed mood, demonstrating a comic softening of his more uptight attitude towards his children and Diana, before falling asleep contented on the sofa. He wakes later, believing he has experienced a dream and showing no adverse side effects of the overdose of drugs. Later in the programme his mother-in-law attributes his more relaxed behaviour as being the result of "*one too many happy pills*".

A viewer expressed concern that the overdose of painkillers shown in this episode was unsafe, appeared to show no adverse health consequences and that this demonstrated irresponsibility on the broadcaster's behalf. Ofcom asked the BBC for comments under Rule 1.10 (the abuse of drugs must generally be avoided before the watershed.)

Response

The BBC asked Ofcom to take into consideration that the script made it clear that the drugs were prescription painkillers, that Jimmy did not take the drugs for their effect but because he thought they would have sugar in them. This was consistent with the character's foolishness, and what he did under the influence of the drugs gave him great cause for concern.

Furthermore, the BBC argued that by taking the drugs Jimmy suffered negative consequences and "scaled new heights of foolishness to his considerable embarrassment". In the BBC's view, it was therefore unlikely that Jimmy's actions condoned or glamorised the abuse of drugs.

The BBC added that *After You've Gone* was broadcast "well after" the end of programming aimed at children and that by 19:30 the youngest children were not normally watching BBC1. It added that the programme required a reasonably mature understanding of social class and family dynamics and was therefore unlikely to appeal to the youngest children. Those old enough to understand it would have appreciated that the content relied on numerous absurdities.

However, the BBC accepted that this particular episode was broadcast during July when many schoolchildren would have been on holiday and therefore perhaps staying up later than usual. *After You've Gone* was originally commissioned for broadcast at 20:30 by which time a higher proportion of younger viewers would have gone to bed. The BBC said it now recognised that this programme was not appropriate for younger viewers and should therefore not have been broadcast in this earlier timeslot. The BBC assured Ofcom that, in light of its content, the episode would not be broadcast again before 20:30.

Decision

Rule 1.10 requires broadcasters to avoid generally the abuse of drugs, and in any case such abuse should not be condoned, encouraged or glamorised in programmes broadcast before the watershed, unless there is editorial justification. This Rule covers all drugs, not just recreational or illicit drugs.

In this episode it is made clear that the character Jimmy chooses to exceed the recommended dosage of prescription medication. In reality, any abuse of painkilling medication carries the risk of very serious and even fatal side effects. In the scene, however, Jimmy is shown to experience only a relaxing of his inhibitions. The hallucinatory side effects of the overdose and his subsequent behaviour are accompanied by canned audience laughter which serves to emphasise the intended comedy of the situation.

Ofcom notes the broadcaster's argument that Jimmy did not take the drugs for their intended medical effect, but because he thought they might have sugar in them and this behaviour was consistent with the "well established ignorance and foolishness" of Jimmy in this long-running series. Although Jimmy appeared to suffer no adverse effects through his overdose, we took into account that by the conclusion of the episode Jimmy was shown to be embarrassed by his behaviour under the influence of the medication.

Ofcom recognises this was a comedy and therefore the scene was intended for humorous effect. Humour often derives from exaggerating a situation to the point of absurdity, but it is Ofcom's view that where the content includes the abuse of drugs, particularly when the programme is broadcast at a time when younger children may be watching, broadcasters should exercise particular caution.

Audience data shows that some 9% of the audience consisted of children under the age of 15 (a total of about 224,000). Ofcom considers that younger viewers may not appreciate the potential dangers of the behaviour portrayed in the scene in question, particularly given its portrayal in an amusing light and possible 'fun' consequences. We therefore welcome the BBC's recognition that given its content this programme was not appropriately scheduled for younger viewers and its assurances that it would not therefore broadcast this episode again before 20:30. In light of this, Ofcom considers the matter resolved.

Resolved

Out of Remit

Aalim Online

Geo UK/Geo TV

Introduction

Geo UK is a general entertainment and news channel broadcasting on the Sky platform, to an Urdu speaking audience. *Aalim Online* is a religious discussion programme, hosted by Dr Aamer Liaquat Hussain.

Ofcom received 1,570 complaints concerning the programme. There was evidence that the complaints were part of an orchestrated campaign. Complaints stated that the programme was broadcast on 7 September 2008. This programme included a discussion concerning the movement of Ahmadiyya¹. Two complainants provided recordings of the programme obtained from the internet.

The complainants objected to the programme on a number of grounds, including that:

- the programme was broadcast on the 34th anniversary of the Ahmadi community being declared non-Muslim by the authorities in Pakistan;
- the programme was extremely offensive to followers of the Ahmadi faith; and
- there were comments in the programme that constituted an incitement to harm or kill Ahmadis.

Several clerics contributed to the programme by telephone and in the studio, and according to a certified translation received by Ofcom, from a firm of lawyers representing one complainant, one cleric, speaking by telephone, said:

“As long as this evil exists and a single Qadiani² is on this land, Dr.Sahib, there is a need for his removal. Maybe you or the viewers have understood my point”.

Later in the programme, another cleric in the studio said:

“Anyone who will make such a claim³ is a liar, and it is obligatory to kill him in the sight of certified religious scholars of the Muslim ummah⁴ as well”.

Complainants pointed to the fact that, in the days following the broadcast, two prominent Ahmadis were killed in Pakistan.

Ofcom contacted Geo UK outlining the complaints that it had received, and requested a recording of the programme.

¹ A movement that grew out of mainstream Islam in the 19th Century, although Ahmadis still consider themselves Muslims.

² A term for an Ahmadi, which is seen as derogatory by members of the Ahmadiyya.

³ Concerning a claim of false prophethood.

⁴ An Arabic word, which in connection to Islam, is held to mean “the community of the believers” or the whole Muslim world.

Response

Geo UK stated that the programme had been broadcast only on its Pakistan service, "Geo TV". The broadcaster said that it had not been broadcast on its Ofcom licensed service "Geo UK".

The broadcaster said Geo UK broadcasts the same content as Geo TV, on a time-shift basis, five hours after it is broadcast in Pakistan.

However, in relation to the edition of *Aalim Online* of 7 September 2008, Geo UK said that it realised that the programme, as broadcast on the Geo TV service in Pakistan, would not comply with the Code. As a consequence, the broadcaster said that the programme in question was not broadcast on Geo UK, and instead a recording of the previous day's edition of *Aalim Online* was broadcast in its place.

Geo UK also made representations to Ofcom concerning the translation that Ofcom had received of the programme. It offered a different interpretation of that translation on a couple of points.

Decision

The Geo TV service broadcast in Pakistan is not licensed or regulated by Ofcom.

After receiving the recording of its service from Geo UK, given the gravity of the allegations made against the broadcaster, Ofcom took steps to authenticate the recording. First, it arranged for the material to be viewed by an Urdu speaker, who confirmed that the programme complained of did not appear to be transmitted on the Geo UK service (i.e. it did not appear on the recording provided by Geo UK). Second, Ofcom noted that during the recording (provided by Geo UK) there were regular on-screen graphics displaying the time of "Iftar"⁵ in London, and the time displayed tallied with the publicly published times for Iftar in London for 7 September 2008. As the time of Iftar will change daily, it was clear that the recording was of the broadcast of Geo UK's output for the early evening segment of 7 September 2008.

Finally, Ofcom noted that the on-screen appearance of the recording matched the on-screen appearance of the Geo UK service broadcast on the Sky platform, and was distinct from the on-screen appearance of the material on the recordings provided by complainants, which were all from a particular website hosting the original programme, that had been broadcast on Geo TV in Pakistan.

Given the above, Ofcom was satisfied that the programme that had been complained about was not broadcast on Geo UK, the television service licensed by Ofcom but in fact on the Pakistani Geo TV service. The version the complainants had complained about had been broadcast only on the Pakistani service and had been available on the internet and as a consequence, none of the complaints could be entertained.

Not in Remit

⁵ The evening meal that marks the break of the daily fast during the month of Ramadan. The time displayed on screen for Iftar in London for 7 September 2008 was indicated to be 7:37pm.

Fairness and Privacy Cases

Upheld and Partly Upheld

Complaint by Mr Nicholas Beardshaw and Mrs Michaela Beardshaw

Weekend Nazis, BBC1, 27 August 2007

Summary: Ofcom has partly upheld this complaint of unfair treatment by Mr Nicholas Beardshaw and Mrs Michaela Beardshaw. Ofcom has not upheld the Beardshaws' complaint of unwarranted infringement of privacy in the making and broadcast of the programme.

On 27 August 2007, BBC1 broadcast the documentary *Weekend Nazis* which focused on the annual "War and Peace Show" in Kent. During this event, World War Two re-enactment groups from around the world put on displays and engaged in mock battles. The programme questioned why the majority of the World War Two re-enactors chose to depict German soldiers rather than British soldiers and why, out of those depicting German soldiers, the majority chose to depict the "Waffen-SS" rather than the regular German Army.

Mr Nicholas Beardshaw and Mrs Michaela Beardshaw ("Mr and Mrs Beardshaw") are military re-enactors who play the part of German Army medics. In 2007, they were married at the annual War and Peace Show and footage of their wedding was shown in the programme.

Mr and Mrs Beardshaw complained to Ofcom that they were treated unfairly in the programme and that their privacy was unwarrantably infringed in both the making and broadcast of the programme.

Ofcom found as follows:

- The Beardshaws were not told the true nature of the programme when they agreed that their wedding could be filmed and this resulted in unfairness.
- No unfairness resulted from the programme makers not including footage of what the Beardshaws said was Mrs Beardshaw's apparent distress at an interview conducted with them shortly after the wedding ceremony.
- The use of the German National Anthem over shots of their wedding invitation and their arrival for their wedding in the context of this programme resulted in unfairness to the Beardshaws.
- No unfairness resulted from the portrayal of the guests who attended the wedding, many of whom were dressed in German military uniform.
- The Beardshaws were not given an opportunity to respond to an allegation made in the programme that they wore SS symbols in civilian life and this resulted in unfairness.

- There was no unwarranted infringement of privacy of the Beardshaws in relation to the making or broadcast of the programme.

Introduction

On 27 August 2007, BBC1 broadcast the documentary *Weekend Nazis* which focused on the annual “War and Peace Show” in Kent which hosts the world’s biggest military vehicle show. During this event, World War Two re-enactment groups from around the world put on displays and engage in mock battles. The programme questioned why the majority of the World War Two re-enactors chose to depict German soldiers rather than British soldiers and why, out of those depicting German soldiers, the majority chose to depict the “Waffen-SS” rather than the regular German Army. In light of this, the programme questioned whether there was a “dark side” (that is, the presence of extremist right wing views) to what is regarded by many in the re-enactment community as innocent fun in recreating “living history”. During filming, the programme makers came across people selling and displaying Nazi memorabilia. They also found people making overtly racist remarks when they were filming undercover.

Mr Nicholas Beardshaw and Mrs Michaela Beardshaw (“Mr and Mrs Beardshaw”) are military re-enactors who play the part of German Army medics. Mrs Beardshaw is German. In 2007, they were married at the annual War and Peace Show and footage of their wedding was shown in the programme. Mr and Mrs Beardshaw had agreed that the programme makers could film their wedding. Many of the guests shown in the footage included in the programme were dressed in “Waffen-SS” and German Army uniforms. Mr Beardshaw was shown dressed in a WWII German Army uniform and Mrs Beardshaw wore a period wedding dress. Footage of their wedding invitation, headed by the German eagle and swastika emblem, was also shown in the programme. Shortly after the wedding ceremony Mr and Mrs Beardshaw were interviewed by the programme’s reporter, John Sweeney, during which Mr Beardshaw said that there was no political motivation for getting married in the way they chose.

Mr and Mrs Beardshaw complained to Ofcom that they were treated unfairly in the programme and that their privacy was unwarrantably infringed in both the making and broadcast of the programme.

The Complaint

Unfairness

In summary, the Beardshaws complained that they were treated unfairly in the programme in that:

- a) they were not told the true nature of the programme. They said the programme makers had told them that they were making a documentary about how World War Two re-enactments are low key in Europe and even banned in Germany but how people can depict German forces in the UK. Mr and Mrs Beardshaw said that they had no knowledge of the programme’s intention (that is, finding Nazi supporters in the re-enactment community) or that they would be interviewed by the programme’s reporter in a way which linked their portrayal of “German forces...to the word Nazi and Nazi wedding”, and which used their wedding as a platform to search for real Nazi/right wing sympathisers.
- b) the footage of the wedding was edited unfairly which showed their wedding in a bad light and resulted in portraying Mr and Mrs Beardshaw unfairly. In particular, they said that:

- i) Mrs Beardshaw, who is German, had felt stressed and victimised over the accusation made by the programme makers that they had had a “Nazi wedding”, though footage of her distress was not shown in the programme;
 - ii) the music to their wedding was “dubbed out” in the programme and replaced by the German National Anthem;
 - iii) only 20 wedding guests out of the 60 in attendance were dressed in German uniforms. The programme failed to show those dressed in civilian clothing or Allied military uniforms. It also included footage of people who were not invited to the wedding but had turned up without Mr Beardshaw’s prior knowledge;
 - iv) despite the Beardshaws having asked the programme makers not to show the footage of John Sweeney demanding to know why they had had a “Nazi wedding” it was included in the programme as broadcast;
 - v) John Sweeney expressed his views on Mr and Mrs Beardshaw’s “Nazi wedding” and then unfairly stated that “we have seen Nick and Michaela in their civilian clothing with SS decoration”. In fact, Mr and Mrs Beardshaw said that the programme makers would have seen them wearing:
 - a modern “Bundeswehr” (the German Federal Defence Service) t-shirt;
 - a skull and crossbones key ring bought from a children’s department store in Germany;
 - skull and crossbones sword belt buckle bought from the “Pirates of the Caribbean” ride at Euro Disney; and,
 - skull and crossbones socks worn by Mrs Beardshaw and bought from the same ride at Euro Disney.
- c) they were not given an appropriate opportunity to respond to the allegations made by the programme. In particular, Mr and Mrs Beardshaw said that John Sweeney demanded to know why they had had a “Nazi wedding” just after they had taken their wedding vows and walked down the aisle. After the filming of the wedding, Mr and Mrs Beardshaw said they complained to the programme makers about their conduct at the wedding and they agreed to be re-interviewed about their involvement in re-enacting. Mr and Mrs Beardshaw said that this interview footage was not shown in the programme although the footage they requested not to be shown was included.

Privacy

In summary, Mr and Mrs Beardshaw also complained that their privacy was unwarrantably infringed in both the making and broadcast of the programme in that:

- d) the programme showed their personal wedding stationary (that is, the wedding invitation) without Mr and Mrs Beardshaw’s knowledge or consent.
- e) the programme makers did not keep to the permission given by Mr and Mrs Beardshaw to film at the wedding from a distance.

The BBC’s Statement

In summary the BBC said that Nicholas Beardshaw chose to marry his wife, Michaela, wearing a uniform bearing the Nazi swastika symbol. It said that the Nazi regime plunged the world into a devastating war and slaughtered millions of people. It argued that modern democratic Germany has done a great deal to purge itself of the stain of Nazism, and has erected numerous memorials to ensure its people never forget. As the programme pointed out:

“In Germany, displays of the swastika and other symbols of the Third Reich are illegal. Indeed, the German authorities are so anxious about neo-Nazis that they’ve tried to get the whole of Europe to adopt their ban.”

The BBC said that the programme had suggested that some would find what the Beardshaws did tacky and tasteless, but had gone no further than this. They said that other people, including some viewers of the programme, might regard any association with Nazism as highly offensive, but that was a matter for them. The BBC’s overall position was that nothing in the programme exceeded the boundaries of fair comment.

Unfairness

- a) In relation to the complaint that the Beardshaws were not told the nature of the programme, the BBC said there were careful discussions between the programme makers and the BBC Executive Producer before production started. There was a written outline of the programme, agreed between the BBC and October Films, the production company, which formed the basis of any approach to contributors. This outline explained that the programme was a documentary about the debate on whether or not the ban on the display of swastikas should be introduced throughout Europe. Two weeks before the Beardshaws’ wedding, the programme’s associate producer asked members of the re-enactment groups she had been in touch with to pass her telephone number to Nick Beardshaw and his then fiancée, Michaela Sett. Mr Beardshaw then called the associate producer, and she told him she wished to film their forthcoming ceremony as part of the programme. The nature of the programme was carefully explained to Mr Beardshaw and Ms Sett to ensure they were clear about it. After this lengthy phone call, in which Mr Beardshaw explained how he had met his fiancée at a previous War and Peace Show, he said he would be quite happy for the ceremony to be filmed. He also explained that there would be other media present, and agreed to be interviewed beforehand. The associate producer’s contemporaneous note of the conversation contained no reference to any special terms or conditions for their participation in the programme, and the associate producer did not recall any discussion on this point.

The BBC said the wedding invitation, shown in the programme, was a painstaking re-creation of a period document, featuring swastikas and the German eagle. From the untransmitted footage of the wedding (which was provided to Ofcom) the BBC said it was clear that the groom, the best man and all those who lined up to form the guard of honour were dressed in Nazi era uniforms, many of them in the black of the Waffen SS.

In relation to the complainants’ claim that the intention of the programme was to “find Nazi supporters in the re-enactment community” the BBC said the wedding sequence was carefully separated from the later “investigative” sequences. It said the wedding was presented in a different context, namely exploring freedom of speech and why people are involved in re-enactment. Following the footage of the wedding there were then several sequences looking at, firstly, the sale of Nazi memorabilia and, secondly, the English “love affair with the Second World War”.

The BBC stated that it was only then that the programme turned to the meaning of Nazism, firstly by noticing the absence of material at the show relating to the Holocaust, then by interviewing the Holocaust denier David Irving, and finally going on to point out the selective view of the history of the Waffen SS. It was only in the final part of the programme that the reporter started raising questions about the true beliefs of those individuals who parade in SS uniforms, which, as Mr Beardshaw pointed out, he does not. In any event, the BBC said it did not accept that an intention to “find Nazi supporters” was in itself unfair to Mr or Mrs Beardshaw.

Similarly, the BBC rejected the complainants’ contention that the wedding was used “as a platform to search for real Nazi right wing sympathisers” and that they were interviewed to link their portrayal of “German forces ... to the word Nazi and Nazi wedding”.

b) In relation to the complaint that footage of the wedding was edited unfairly the BBC dealt with each point raised by the Beardshaws as follows:

i) In relation to the Beardshaws’ complaint that footage of Mrs Beardshaw’s distress was not shown, the BBC rejected the claim that Mrs Beardshaw was distressed on the day. The BBC recorded two interviews with the Beardshaws. The programme reporter’s first interview with the Beardshaws took place immediately after the wedding. The BBC maintained that Mr Sweeney did not push forward and interrupt them. The BBC pointed out that Mrs Beardshaw’s first answer includes the comment

“I was absolutely shaking, but I feel really, really good now”.

The BBC said that this suggested Mrs Beardshaw was, as many brides are, nervous about the ceremony but delighted to be married.

The BBC pointed out that after the wedding the programme makers met the Beardshaws to discuss their concerns about being asked, as they alleged, about their “Nazi wedding”. The BBC said that at this meeting the Beardshaws gave no indication that either of them felt “stressed” or “victimised” once they had been assured that at no time during the interview had Mr Sweeney used the term “Nazi wedding”.

ii) In relation to the complaint that the programme replaced the music used in the Beardshaws’ wedding with the German National Anthem, the BBC said the incidental music used to link into the wedding sequence was the current German National Anthem, and that it was used over the shot of the wedding invitation and not the wedding. The BBC said the purpose of the music was to link one scene to the next so as to render the bridge between scenes smooth and seamless. The BBC said that immediately after this the music as played at the wedding and recorded on the untransmitted footage was clearly heard.

iii) In relation to the complaint that the programme failed to reflect that only 20 wedding guests out of the 60 in attendance were dressed in German uniforms, and did not show any guests dressed in civilian clothing but did focus on many uninvited attendees who were dressed in German uniform, the BBC said that the wedding was held in the middle of a show that attracts some 20,000 visitors a day. It said the couple’s chosen location was outside the main Hop Farm restaurant, which remained open throughout the ceremony. Several members of the public stopped to observe and some took photographs in close proximity to the wedding party. In addition there were two other television crews present, and several press photographers. The

BBC said that it was therefore hard to be certain from the recorded material which of those present were invited guests and which were simply bystanders. However, from the footage they obtained, the BBC stated they were able to identify 47 individuals who seemed likely to be “wedding guests”. It calculated that 27 of the 47 wedding guests present were in German Wehrmacht or SS uniform.

The BBC also pointed out that Mr Beardshaw had posted a message on an internet message board frequented by participants in the War and Peace Show announcing the forthcoming nuptials. In the circumstances, the BBC said it was unsurprising that there were uninvited guests.

- iv) In relation to the complaint that, despite asking the programme makers not to show the footage of John Sweeney demanding to know why they had had a “Nazi wedding” in the programme, it was included in the programme as broadcast, the BBC denied that Mr Sweeney asked why the Beardshaws had had a “Nazi wedding”. It denied that the relevant part of the programme included this phrase. Further it said the Beardshaws did not request that any part of the coverage not be shown.

- v) In relation to the comment in the programme that

“...we have seen Nick and Michaela in their civilian clothing with SS decoration...”

the BBC said the programme’s two researchers went to the Hop Farm site at Beltring on the afternoon of Sunday July 15, 2007, while the show was still being prepared. Once there they bumped into the Beardshaws, who had just arrived. The BBC stated that both researchers were surprised at the Beardshaws’ attire: they were wearing ordinary civilian clothes but decorated with sewn-on patches depicting SS insignia, swastikas and other Nazi symbols. The BBC said that both were also wearing retro jewellery, such as a Thor Hammer and runes, traditionally worn by the Nazis. The BBC reproduced pictures of the Disney and *Pirates of the Caribbean* items which the Beardshaws said they had worn and compared them to genuine Nazi symbols. The BBC said the researchers, who had spent considerable time investigating such artefacts, did not accept they would have confused entertainment-themed Disney pirate materials with the infamous SS death’s head.

- c) In relation to the Beardshaws’ complaint that they were not given an appropriate opportunity to respond to the allegations made by the programme, the BBC said that on 21 July 2007 they offered the Beardshaws the chance to talk at more length on camera about their wedding and their fascination with re-enactment in a second interview. The BBC pointed out that a large part of this interview was dedicated to Mr Beardshaw explaining the minutiae and history of his re-enactment activities. The BBC said that when this material was reviewed it became apparent that Mr Beardshaw’s first interview was a more concise and spontaneous account of his hobby in the context of the wedding, so the excerpt used came from his first interview. The BBC suggested that no unfairness arose from what it said was an appropriate exercise of editorial discretion. Furthermore, the BBC again stated that at no point was a request made, or a commitment given, to transmit - or not transmit - any specific material.

- d) In relation to the complaint that their personal wedding stationery was shown, the BBC did not accept that showing Mr and Mrs Beardshaw's wedding invitation constituted a breach of privacy. They stated that the invitation did not reveal any inherently private or personal information about the Beardshaws. The BBC pointed out that the Beardshaws had agreed that the programme makers and two other television companies could film their wedding, and again referred to the fact that Mr Beardshaw had posted a wedding announcement on a public internet bulletin board. The BBC felt that Mr Beardshaw had therefore put the relevant information into the public domain. In any event, the BBC said the style of the invitation, with its "prominently displayed" swastika, raised reasonable questions about the wedding itself. These were properly put to Mr Beardshaw, and the programme carried his response.
- e) Finally in relation to the complaint that the programme makers did not keep to the permission given by Mr and Mrs Beardshaw to film at the wedding from a distance, the BBC said that no such request was made to any member of the production crew at any time. The BBC also said that from the untransmitted material (provided to Ofcom), it was clear that the programme maker's camera was no closer than either of the other two TV cameramen in attendance.

The complainants' comments

Unfairness

- a) In summary and in relation to the complaint that they were not told the nature of the programme, the Beardshaws said that what they were told about the programme bore no relationship to the final broadcast, which was sensational. They said the title *Weekend Nazis* was a statement and implied that everyone featured in the programme was a right wing Nazi sympathizer. They also said that the content of the programme changed drastically throughout. The Beardshaws disputed the BBC's account of the communications between themselves and the programme's associate producer. They stated that the associate producer had told them the programme aimed to highlight how 'we remember the war but some parts of Europe want to sweep the war away and keep it hidden'. The Beardshaws also said that the associate producer had told them that she too was a re-enactor in Germany and that she would never allow re-enactors to be brought into disrepute.
- b) In relation to the complaint that the footage of the wedding was edited unfairly the Beardshaws responded to the BBC statement as follows:
 - i) The Beardshaws said the untransmitted footage showed that Mrs Beardshaw was clearly uneasy at Mr Sweeney's approach. The Beardshaws stated that when they approached the associate producer two days after the wedding Mrs Beardshaw burst into tears and said she would not have participated if she had known that Mr Sweeney was going to be involved in the programme. In discussions with the programme makers they asked for the footage not to be used and agreed to another interview.
 - ii) The Beardshaws disputed the BBC's account that the German anthem was used purely to link the wedding sequence in the programme. They repeated their complaint that the German anthem was played over footage of the wedding, replacing the music that they had chosen.
 - iii) In relation to the wedding attendees, the Beardshaws said that the people in the footage wearing the black SS uniforms had not been invited and turned up at the same time as the undercover reporters. They also said that 'civilian'

- guests were out of shot of the BBC camera. The Beardshaws provided a list of all the invited guests and photographic evidence of the guests and what they were wearing.
- iv) In relation to the inclusion of what the Beardshaws said were references to a “Nazi wedding” the Beardshaws re-emphasised their dismay at Mr Sweeney’s line of questioning and referred to comments in the programme such as “*A big fat Nazi wedding*”, “*a beautiful day but you’re in Nazi uniform*”; “*tacky but tasteless*”. The Beardshaws said that these comments bore little resemblance to the overall “remit” of the programme that had been initially explained to them.
 - v) In relation to the claim that the Beardshaws had been seen wearing SS symbols on civilian clothing, they stated that they had never worn any SS symbols, either while enacting or in their civilian lives. The Beardshaws provided Ofcom with photographs of clothing worn by them when they had met the programme researchers before the wedding. They said these photographs demonstrated that they were not wearing SS symbols.
- c) In relation to the complaint that they were not given an opportunity to respond, the Beardshaws referred to the interview they gave two days after the wedding which they said went well. They were given an opportunity to discuss how they represented the Red Cross organization and how they raised money and worked with veterans charities. They noted that none of this material was used in the programme as broadcast and questioned whether the exclusion of the material was really down to editorial discretion.

Privacy

- d) In relation to the complaint that the programme showed their wedding stationery without their consent, the Beardshaws said the stationery (the invitation) was private and issued only to invited guests. The Beardshaws said the invitation was obtained by the programme makers by deception and that when the picture of the invitation was broadcast it was the first time it had been shown in public. The Beardshaws particularly objected to the BBC statement that the nature of the wedding invitation, with its prominently displayed swastika, raised questions about the wedding itself.
- e) Finally in relation to the complaint that the programme makers did not keep to the permission given by the Beardshaws to film at a distance, the Beardshaws said they had agreed with the programme makers to film with discretion. The associate producer had told them that “no invasion would occur”. Despite this the Beardshaws stated that on two occasions the wedding photographer had to request the *Weekend Nazis* film crew to move.

The BBC’s Second Statement

In summary, the BBC again made the point that Nicholas Beardshaw chose to get married wearing a uniform adorned with a swastika, that numerous guests at his wedding wore other uniforms adorned with swastikas and that the invitation he sent out was headed with a German eagle and swastika symbol. The BBC said it was quite clear from the Beardshaws’ submissions that they understand that the swastika was the symbol of the Nazi regime, and that they understand that the regime was a “*fascist ... political movement*”. The BBC remained of the view that the following description of the Beardshaws’ wedding in the programme by reporter John Sweeney was no more than fair comment:

“It’s a free country and on their happy day they can wear what they want. If tolerance extends to them, then it should also extend to others who feel that getting married in this way is not just a little bit tacky, but tasteless.”

Fairness

- a) The BBC said it had nothing to add to its first statement in relation to the Beardshaws’ complaint that they were not told the nature of the programme. The producers of the programme were quite clear that the purpose of the programme was described to both Mr and Mrs Beardshaw on several occasions.
- b) In relation to the complaint that the footage of the wedding was edited unfairly the BBC:
 - i) made no further comment on this sub-head.
 - ii) made no further comment on this sub-head.
 - iii) In relation to the complaint about the portrayal of the wedding attendees, it noted that the Beardshaws had provided Ofcom with photographs and a guest list. The Beardshaws’ summary of guests showed there were thirteen guests in German army uniform and nine in Field Grey SS uniform, making a total of twenty two. The Beardshaws’ summary also said there were six uninvited guests dressed in black SS uniform. The BBC said this closely matched the analysis of guests and their attire made in its first statement, which noted that twenty seven of the forty seven wedding guests present were in German *Wehrmacht* or SS uniform.

The BBC said that the Beardshaws had implied that the six individuals in black SS uniform seen in the untransmitted footage were somehow connected to the producers. The BBC denied this. The BBC also said it noted that several of them joined the guard of honour for the couple. The BBC questioned how those individuals were able to do this if they were unknown to the Beardshaws.
 - iv) In relation to the complaint about the inclusion of the footage showing the Beardshaws being asked about a “Nazi wedding” the BBC said that neither Mr nor Mrs Beardshaw had made any request to the programme makers over use of parts of the filming, and the producers had at no stage agreed that parts of the coverage would not be used in the programme.
 - v) In relation to the complaint about the statements made regarding the Beardshaws’ clothing on 15 July, the BBC said that one of the undercover reporters had made contemporaneous notes about the emblems on the Beardshaws’ clothing and the BBC provided Ofcom with a copy of this note. The BBC stated that one of the reporters involved had been reporting on right-wing extremism for nine years in Germany and was extremely familiar with the associated symbols. The BBC maintained that the reporter would not have mistaken symbols of the Third Reich for *Pirates of the Caribbean* items as was suggested by the Beardshaws.
- c) the BBC had no further comment to make on this head of complaint.

Privacy

- d) In relation to the complaint about the wedding stationery being shown, the BBC said it maintained its view that the invitation was a painstaking re-creation of a period document.
- e) the BBC had no further specific comment to make on this head of complaint.

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 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.

This complaint was considered by Ofcom's Fairness Committee. In reaching a decision it considered a recording and transcript of the programme together with transcripts of unbroadcast footage and unbroadcast footage. It also considered the submissions from both parties.

Fairness

- a) The Committee first considered the complaint that the Beardshaws were not told the nature of the programme and that they had no knowledge of the programme makers' intention, which the Beardshaws said was to find Nazi supporters in the re-enactment community. The Committee took particular account of whether the programme makers' actions were consistent with its obligation to avoid unjust or unfair treatment of individuals in programmes (as set out in Rule 7.1) which states:

"Broadcasters must avoid unjust or unfair treatment of individuals or organisations in programmes".

It also considered whether the broadcaster was fair in its dealings with the Beardshaws as outlined in Practice 7.2. which states:

"Broadcasters and programme makers should normally be fair in their dealings with potential contributors to programmes unless, exceptionally, it is justified to do otherwise".

Finally the Committee considered whether the steps in Practice 7.3 were followed in a way which led to the Beardshaws giving their informed consent. Practice 7.3 states:

"Where a person is invited to make a contribution to a programme (except when the subject matter is trivial or their participation minor) they should normally, at an appropriate stage:

- be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute and when (if known) and where it is likely to be first broadcast;
- be told what kind of contribution they are expected to make, for example live, pre-recorded, interview, discussion, edited, unedited, etc;

- be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
- be made aware of any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness.

Taking these measures is likely to result in the consent that is given being 'informed consent' (referred to in this section and the rest of the Code as "consent").

It may be fair to withhold all or some of this information where it is justified in the public interest or under other provisions of this section of the Code."

The Committee noted the contents of the BBC's written outline for the programme which the BBC said formed the basis of what the Beardshaws were told about it when they were being asked to give permission for their wedding to be filmed. It stated:

"In Germany the public displays of swastikas is illegal. ...is this another example of EU 'nanny state' interference, designed to curb our freedom of speech, or an enlightened, progressive piece of legislation protecting the sensitivities of war veterans and persecuted minorities.

We are making a documentary for the BBC about this debate, and will be exploring the possible effect a ban would have on the portrayal of World War II – in literature, art, religion and at popular 'living history' events such as war re-enactments".

The Committee also noted that the BBC stated that several conversations had taken place between the programme makers and the Beardshaws about the nature of the programme and provided details of one conversation between the associate producer and Mr Beardshaw.

The Committee then compared the content of the programme as broadcast with the written outline referred to above. For example, the Committee considered the opening line of programme commentary which stated:

"If you go down to the woods in Kent, you'll be sure of a big surprise. The Second World War is raging. But they're not real bullets...and they're not real Nazis. They call this Living History. It's all good clean fun. Or is something darker lurking in the woods?"

The Committee noted that the ban on swastikas referred to on the programme brief was mentioned. The voiceover said:

"In Germany, displays of the swastika and other symbols of the third Reich are illegal. Indeed, the German authorities are so anxious about neo-Nazis that they've tried to get the whole of Europe to adopt their ban"

However the Committee also noted how, as the programme progressed it focused on the issue of Nazi sympathisers within the re enactment community.

From reviewing the untransmitted footage, including the second interview with the Beardshaws, conducted two days after the wedding, the Committee considered that the way the Beardshaws behaved towards the programme makers suggested that they were under a misapprehension as to what the programme was focusing on. The Committee were clear that the brief of the programme described by the

BBC and apparently discussed with the Beardshaws by the associate producer did not accord closely with the programme as broadcast.

In relation to the Beardshaws' complaint that they had no knowledge that they would be interviewed in a way that would link their portrayal of "German forces....to the word Nazi and Nazi wedding..." the Committee considered how the Beardshaws and their wedding were portrayed in the context of the programme overall. It noted the title of the programme - *Weekend Nazis*. It also noted the images of children dressed in Hitler Youth uniforms prior to the wedding sequence. Finally, the Committee took particular note of the comment in the script immediately before the Beardshaws wedding that:

"My first impression is of a big fat Nazi wedding. Later I was told I was wrong about that. Apparently – to the trained eye – many of these uniforms are not Nazi at all"

The Committee considered that although John Sweeney said "...I was wrong..." in the above remark the scripted references had served to suggest a connection between the Beardshaws' wedding and Nazism. The Beardshaws were not informed that such a connection would be made when they agreed to be filmed.

In conclusion on this head of complaint, the Committee found that there was a significant difference between the content of the broadcast programme and what the programme makers had told the Beardshaws the content would be. The Committee therefore found that the Beardshaws were not told the true nature of the programme and were unaware of what kind of contribution they were expected to make to it at the time they agreed to participate. This resulted in unfairness to them.

Accordingly the Committee upheld this head of complaint, that the Beardshaws were not told the true nature of the programme.

- b) The Committee next considered the Beardshaws complaint that the footage of their wedding was edited unfairly. In seeking to make a decision on this head of complaint the Committee referred individually to each of the instances specified by the Beardshaws which they said demonstrated unfair treatment of them by the programme makers. In relation to each of these sub-heads (i) to v) below) and looking at the programme overall, the Committee took particular account of Rule 7.1 quoted above. The Committee also considered whether the way in which the programme makers edited any of the contributions resulted in those contributions having been represented unfairly (as outlined in Practice 7.6).
- i) The Committee first considered the complaint that footage of Mrs Beardshaw's distress over the accusation was not shown in the programme.

The Committee considered the sequence of the wedding that was broadcast and also the unedited footage provided by the BBC of the Beardshaws being interviewed immediately after the marriage ceremony. It did not find any material to suggest distress and noted that the Beardshaws readily posed for pictures and seemed happy with events. Although Mrs Beardshaw may have appeared uncomfortable with the reporter's questions, she did not appear distressed. The editing of the footage appeared to the Committee to be a fair encapsulation of Mrs Beardshaw's demeanour during the wedding and the post wedding interview.

Accordingly the Committee found that no unfairness resulted to the Beardshaws from the way the footage was edited in this respect.

- ii) The Committee then considered the complaint that the music to the wedding was “dubbed out” in the programme and replaced by the German National Anthem.

The Committee considered both the transmitted and untransmitted footage of the wedding. It noted that the German National Anthem was played over the still shot of the wedding invitation and over the initial footage of the Beardshaws arriving for the wedding service, when it replaced the actual music that was played (US swing music). The Committee bore in mind that Mrs Beardshaw is German. It noted that this piece of music remains the national anthem of modern day Germany. It also noted that it was played on a harp in what could be said to be a ‘wedding style’. In considering whether its use was unfair as the Beardshaws had complained the Committee noted that the music chosen by the Beardshaws for their wedding was American popular music of the 1940s era, with no nationalistic overtones. It also noted that immediately before the wedding sequence the programme commentary stated:

“It’s a family affair. Some of the kids are even dressed up as Hitler Youth”.

The Committee concluded that the use of this piece of music, in the context of the whole introduction to the wedding sequence including the still shot of the wedding invitation with its prominently displayed swastika, (reproduced, according to the Beardshaws, in the interests of historical accuracy) served to make a likely connection in the minds of viewers between the Beardshaws’ wedding and Nazi era Germany, as opposed to showing it as a 1940’s period wedding in the context of a historical re-enactment event.

As a result the Committee found that the programme maker’s use of music in this respect resulted in unfairness to the Beardshaws.

- iii) The Committee then considered the complaint that the programme failed to show those wedding guests who were dressed in civilian clothing or Allied military uniforms and that the programme also included footage of people who were not invited to the wedding.

In adjudicating on this head of complaint the Committee considered both the transmitted and untransmitted footage of the wedding. It noted that the venue for the wedding – within an event open to the public and adjacent to outlets frequented by the public (albeit in a separate enclosure) – meant it was possible for uninvited guests to be present. The Committee considered additional photographic evidence supplied to it by the Beardshaws, including in particular a copy of the official wedding group photo. The Committee considered that although not all the guests wore German uniforms the overall impression was of a WWII German military style wedding. It noted the military style of Mr Beardshaw’s attire and overall concluded that the portrayal of the wedding guests in the programme was fair. Therefore the Committee found no unfairness to the Beardshaws in respect of this head of complaint.

- iv) The Committee then turned to the Beardshaws’ complaint that despite asking the programme makers not to show the footage of the reporter, John

Sweeney, demanding to know why they had had a “Nazi wedding”, this footage was included in the programme as broadcast.

On the information before it, the Committee found that there was a conflict of evidence on this since it was disputed whether an undertaking in relation to the footage had been given. However, the issue of whether the use of the footage complained of resulted in unfairness is dealt with at head a) above.

- v) Next the Committee considered the Beardshaws’ complaint that John Sweeney expressed his views on Mr and Mrs Beardshaw’s “Nazi wedding” and then unfairly stated that “...*we have seen Nick and Michaela in their civilian clothing with SS decoration...*” The Beardshaws’ complaint on this sub head maintained that the programme makers would have seen them wearing modern German military replica t-shirts and innocent regalia purchased at amusement parks.

On the information available to it the Committee found that there was a conflict of evidence on this issue in relation to the basis of the allegations made. However the issue of whether the Beardshaws were given an opportunity to respond to these allegations is dealt with under head c) below.

Accordingly the Committee has upheld the complaint that the programme-maker’s use of music during the wedding sequence was unfair to the Beardshaws (sub head ii) at head b) of the complaint).

- c) The Committee then considered the Beardshaws’ complaint that they were not given an appropriate opportunity to respond to the allegations made by the programme. In particular, Mr and Mrs Beardshaw complained that John Sweeney demanded to know why they had had a “Nazi wedding” just after they had taken their wedding vows and walked down the aisle. The Beardshaws also complained that no footage was broadcast from the second interview recorded two days after the wedding. In considering this head of complaint the Committee took particular account of Rule 7.1 discussed above. The Committee also considered Practice 7.11 which states:

“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”

The Committee noted that the reporter challenged the Beardshaws about their wedding attire, saying:

“It’s a beautiful day but you’re in Nazi uniform.”

Also that the commentary stated:

“But previously we’d seen Nick Beardshaw and Michaela Sett, dressed in civvies, decorated with SS symbols.”

The Committee considered that in the context of the wider programme and its title both statements amounted to allegations that the Beardshaws were associated with Nazism. This was a significant allegation to which an opportunity to respond should be given.

In relation to both these allegations the Committee then considered whether the Beardshaws were given a timely and appropriate opportunity to respond. It noted that in relation to the first allegation, it was put to the Beardshaws shortly after their wedding ceremony. However, the Committee noted that the Beardshaws were standing in an area that was effectively a 'press pen' when the question was asked and they had been interviewed by other members of the press before Mr Sweeney. The Committee also noted that Mr Beardshaw appeared happy to address the question and gave a full and effective answer as follows:

"No we're not in political uniform, we're just in German uniform, German Army uniform. It's to recreate a period in history which obviously can't be forgotten. We're here to show it justice, show people's respect, respect everybody. Erm, there's nothing political about it."

On balance the Committee felt that the Beardshaws had been given an appropriate and timely opportunity to respond to this allegation.

In relation to the comment that the programme makers had previously seen the Beardshaws in civilian dress adorned with SS symbols, on the information provided the Committee found that what amounted to a serious allegation was made (that they wore SS symbols in civilian life) and the Beardshaws were given no opportunity to respond to it. This failure to provide an opportunity to respond resulted in unfairness to the Beardshaws.

Accordingly the Committee has partly upheld this head of complaint of unfairness.

Privacy

The Committee then considered the Beardshaws' complaints that their privacy was unwarrantably infringed in both the making and broadcast of the programme.

- d) The Beardshaws complained that the programme showed personal wedding stationery, namely their wedding invitation, without their knowledge or consent. The Committee noted that this was a complaint about the "showing" of the invitation and therefore considered it as one of unwarranted infringement of privacy in the broadcast of the programme. In adjudicating on whether the Beardshaws' privacy had been infringed in the broadcast of the programme, the Committee had regard to Rule 8.1 of the Code which states that any infringement of privacy in programmes and in connection to obtaining material included in programmes must be warranted. The Committee also considered Practice 8.6 which states that any infringement of privacy in the broadcast of the programme must be with the person's consent or be otherwise warranted.

The Committee considered whether the Beardshaws had a legitimate expectation of privacy in relation to the broadcast of the wedding stationery. The Committee noted that the overall context of the footage of the invitation was in the sequence of the Beardshaws' wedding, which the BBC had consent to film. The Committee acknowledged that the Beardshaws said the invitation had been obtained by the BBC by subterfuge. However the Committee found that the information shown on the invitation, namely details of the wedding which had appeared on the internet, was publicly available information and as such it was not material of an inherently private nature. Accordingly, the Committee found that, in relation to the broadcast of the wedding invitation, the Beardshaws did not have a legitimate expectation of privacy and therefore there was no infringement of privacy. Given this, it was not

necessary for the Committee to further consider whether any infringement of privacy was warranted.

- e) The final head of complaint was the Beardshaws' complaint that the programme makers did not keep to the permission given by Mr and Mrs Beardshaw to film the wedding from a distance. The Committee noted that this complaint referred to the "filming" and therefore treated it as a complaint of unwarranted infringement of privacy in relation to the making of the programme. In adjudicating on whether the Beardshaws' privacy had been infringed in the making of the programme, the Committee had regard to Rule 8.1 of the Code which indicates that any infringement of privacy must be warranted, as well as Practice 8.5 which states that any infringement of privacy in the making of the programme must be with the person's consent or be otherwise warranted.

The Committee considered whether the programme makers were obliged to film at a particular distance. The Committee found no evidence of such an undertaking. In addition the wedding took place in a semi public place and there were other film crews and photographers in attendance, all of whom had the Beardshaws' permission to record their wedding. These factors served to diminish the Beardshaws' legitimate expectation of privacy.

Accordingly the Committee found on balance that the Beardshaws did not have a legitimate expectation of privacy in relation to the distance at which the wedding was filmed. Given this, the Committee found that the Beardshaws privacy was not infringed in the making of the programme, and it was not necessary for the Committee to further consider whether any infringement of privacy was warranted.

Accordingly the Committee upheld head a), sub-head ii) of head b) and part of head c) of the complaint of unfair treatment so that the complaint of unfair treatment was partly upheld. The complaint of unwarranted infringement of privacy was not upheld.

Ofcom has directed the BBC to broadcast a summary of this finding.

Complaint by Mr Glenn Swallow *Weekend Nazis, BBC1, 27 August 2007*

Summary: Ofcom has not upheld Mr Swallow's complaints of unfair treatment and unwarranted infringement of privacy in the making of the programme. Ofcom upheld one part of Mr Swallow's complaint of unwarranted infringement of privacy in the broadcast of the programme.

On 27 August 2007, BBC1 broadcast the documentary *Weekend Nazis* which focused on the annual "War and Peace Show" in Kent. During this event, World War Two re-enactment groups from around the world put on displays and engage in mock battles. The programme questioned why the majority of the World War Two re-enactors chose to depict German soldiers rather than British soldiers and why, out of those depicting German soldiers, the majority chose to depict the "Waffen-SS" rather than the regular German Army. During filming, the programme makers came across people selling and displaying Nazi memorabilia. While filming undercover they found people making overtly racist remarks.

Mr Swallow is one of the leaders of a large re-enactment group known as the Second Battle Group (the SBG) which portrays the 1st SS Panzer Division Leibstandarte Adolf Hitler. He was shown in the programme inspecting the re-enactors in their uniform and answering 'no comment' to the programme reporter's questions.

The programme makers also secretly recorded Mr Swallow and broadcast remarks made by him.

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

Ofcom found as follows:

- Mr Swallow was not treated unfairly in the programme as broadcast either by the interview technique of the programme makers or by the order in which footage was broadcast.
- Mr Swallow's privacy was unwarrantably infringed in the broadcast of the programme because the public interest in broadcasting the comments he complained of did not outweigh Mr Swallow's right to privacy. The complaint of unwarranted infringement of privacy in the making of the programme was not upheld.

Introduction

On 27 August 2007, BBC1 broadcast the documentary *Weekend Nazis*. The programme focused on the annual "War and Peace Show" in Kent. During this event, World War II re-enactment groups from around the world put on displays and engaged in mock battles. The programme questioned why the majority of the World War II re-enactors chose to depict German soldiers rather than British soldiers and why, out of those depicting German soldiers, the majority chose to depict the "Waffen-SS" rather than the regular German Army. In light of this, the programme also questioned whether or not there was a "dark side" (that is, the presence of extremist right wing views) to what was regarded by many in the re-enactment community as innocent fun in recreating "living

history". During filming, the programme makers came across people selling and displaying Nazi memorabilia. While filming undercover they found people making overtly racist remarks.

Mr Glenn Swallow is a military re-enactor and at the time of filming he was a leading member of the Second Battle Group (the "SBG"), a re-enactment group who portray the 1st SS Panzer Division *Leibstandarte Adolf Hitler*. Mr Swallow first appeared in the programme dressed in the uniform of an SS-Sturmscharführer (the equivalent of a Regimental Sergeant Major in the British Army) and inspecting a group of SBG members also dressed in SS uniform. He was identified by name by the programme's presenter, Mr John Sweeney. Mr Sweeney went on to talk about the SBG's history and said that, while its website stated that the group had appeared in *Saving Private Ryan* and documentary programmes, it failed to mention the war crimes attributed to the 1st SS Panzer Division during World War II. The programme showed Mr Sweeney approaching a number of SBG members, including Mr Swallow, and asking about these war crimes. Mr Swallow was shown answering "*No comment*" to Mr Sweeney's questions.

Mr Swallow was then shown in conversation in a beer tent reserved for show organisers and re-enactors. An undercover reporter equipped with a hidden camera and a microphone recorded Mr Swallow's conversation and, although he could not be clearly seen in the footage, his voice was broadcast and his words were subtitled on screen. Mr Sweeney introduced this part of the programme by stating that "*Glenn Swallow, after quite a few beers was only too keen to share his political views*". The programme then included the following comments made by Mr Swallow:

*"If the Waffen-SS existed now – its too late for me now – I would join. I believe we should be sorting these ****ing Muslims out, personally."*

Mr Swallow was then heard talking to a member of another SS re-enactment group about the British Army. He stated:

*"All these [unclear] out of Africa. They're a waste of time, trouble...they undermine the morale of the unit. All this PC *** that goes on. I got investigated at least three times, asking questions about the way you think, what you do. Now the Muslims have played their card. Now they've realised instead of looking at people like us which is on the system's side they should be looking at them. I know this truthfully because I've been told."*

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

The Complaint

Unfairness

In summary, Mr Swallow complained that he was treated unfairly in the programme in that:

- a) The footage of Mr Swallow answering "No comment" to the reporter John Sweeney's questions, and the footage of him in the beer tent, were shown out of sequence. Mr Swallow said that the footage of him being asked questions by Mr Sweeney was taken on the day of the main arena event on Sunday 22 July 2007, while the secretly obtained footage in the beer tent was recorded on Friday/Saturday evening 20/21 July 2007. The sequence of these events in the

broadcast of the programme was, according to Mr Swallow, “moved to make it more sensational”.

- b) The interview technique used by the programme makers on Mr Swallow was aggressive and was an attempt to goad him into a reaction. (This head of complaint was only considered insofar as it caused potential unfairness to the complainant in the programme as broadcast).

Privacy

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

- c) The programme makers did not seek Mr Swallow’s permission to conduct any interview with him.
- d) Mr Swallow was named in the programme. By way of background, Mr Swallow said that this resulted in him being associated with neo-Nazis by Internet users, despite him never belonging to any political group.
- e) He was secretly filmed in the beer tent having a private conversation in which he expressed his personal views.

The BBC’s case

In summary the BBC said that:

Unfairness

- a) In relation to the sequencing of the footage featuring Mr Swallow, the BBC said that Mr Swallow was correct to state that the material in the beer tent was filmed on Friday 20 July and the material in the main arena was filmed on Sunday 22 July. The BBC said that the programme set out to establish whether those who enjoy recreating the look of, in the case of the SBG, the 1st SS Panzer Division Leibstandarte Adolf Hitler, include some who want to recreate the political climate that led to its formation. The BBC argued that viewers needed to understand what the SBG is, and its public position, before hearing Mr Swallow’s remarks in the beer tent, and that therefore the sequence in which the footage was shown in the programme was not unfair to Mr Swallow. The BBC also stated that the programme was neither presented nor constructed as a chronological narrative, so there was no deception in not showing events sequentially.
- b) The BBC did not accept that Mr Swallow was interviewed in an aggressive manner. In support of this the BBC directed Ofcom to untransmitted footage of the interview. The BBC said this showed Mr Swallow being approached openly by Mr Sweeney after the programme makers had discovered that other members of the SBG had been instructed not to speak to the BBC. Mr Swallow responded to each question with the words “no comment”. After the third question, Mr Sweeney terminated the interview with the words “thank you”, and Mr Swallow replied “thank you”. The BBC said there was no suggestion of aggression or hostility on either side, and did not accept that the conduct of the interview resulted in unfairness to Mr Swallow.

Privacy

- c) In relation to the complaint that Mr Swallow's permission was not sought for any interview, the BBC did not separately address the 'no comment' interview in its statement. Its response regarding the undercover footage of Mr Swallow is dealt with at head e) below.
- d) In relation to the complaint that Mr Swallow was named in the programme, the BBC said Mr Swallow was described in the programme as *"the fussy chap on the right, Glenn Swallow. He's the Sturmscharführer"* and as *"the senior officer on duty for the second battle group, Glenn Swallow"*. This identification took place over footage of him marshalling members of his organisation for a display at an event which was open to the public. The BBC said that for some years Mr Swallow has been publicly associated with running the SBG and referred Ofcom to extracts from the SBG's website. The BBC said Mr Swallow's name was therefore already in the public domain in this connection, and the programme did not reveal any further information about him. The BBC said as a result it did not believe the naming of Mr Swallow in this sequence breached Mr Swallow's privacy.
- e) The BBC pointed out that although the organiser of the War and Peace Show where all the filming took place had written to Ofcom saying that the beer tents were *"effectively private parties for the benefit of the exhibitors after the show has closed to the general public"* it was the clear recollection of the programme makers that no restrictions had been put on where they could film. They pointed out that the programme also contained material filmed openly in the beer tents and the programme producer said the marshals were aware that the filming was taking place. Contrary to Mr Swallow's complaint, the programme makers were not asked to stop filming. The production team had been issued with yellow wrist bands as press identification and, the BBC said, there was nothing in the correspondence between the War and Peace Show organiser and the programme makers that indicated that the beer tents were "off limits" to the press.

The BBC did accept that Mr Swallow may have had a limited expectation of privacy while in the beer tent. However, the BBC pointed out that in his complaint to Ofcom, Mr Swallow had referred to the two *"Combat 18 members"* who were also in the beer tent. The BBC said that this demonstrated that Mr Swallow accepted that among those with him were members of a notorious racist organisation. This in the BBC's opinion confirmed the findings of the programme's research that there were racists among the re-enactors. In this regard the BBC pointed out that undercover research leading up to this programme had taken place over more than two years, during which time researchers attended previous "War and Peace Shows" and other events. The BBC stated that the researchers witnessed numerous extreme and racist remarks, and attended a session at which participants in the show sang Nazi songs glorifying the Hitler Youth and the Third Reich. The BBC said that the programme had information that at least two British National Party supporters were associated with the Second Battle Group and would be attending the War and Peace Show 2007. The BBC further said that the programme makers had a variety of other information, which they considered to be reliable, relating to named individuals who attended the War and Peace Show 2007 as exhibitors. It indicated they held racist views, or sought to deny the generally accepted history of Nazism.

The BBC said that all of this research material was considered by appropriate senior editorial managers at the BBC whose permission was required in advance of any secret filming. Those managers considered it warranted such filming taking place. The BBC referred to the material contained in the programme which it said

showed re-enactors making racist remarks. It was this finding that warranted the producers' decision to secretly record conversations in the beer tent.

The BBC maintain that the recording made of Mr Swallow's conversation with the programme's undercover reporter, and the partial transcript of the conversation (which the BBC provided to Ofcom) showed that Mr Swallow made many racially based pejorative remarks, including "*bloody gypsies*" and "*I don't like these blacks*". These, according to the BBC, were in addition to those comments of Mr Swallow included in the programme. The BBC accepted that no permission was sought for this recording, but it said any breach of privacy either in the making or the broadcast of the programme was warranted by the clear public interest in exposing the contradiction between the public statement made by the SBG on its website and the actual views of one of its senior members.

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 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.

This complaint was considered by Ofcom's Fairness Committee. In reaching a decision it considered a recording and transcript of the programme together with transcripts of unbroadcast footage and unbroadcast footage. It also considered the submissions from both parties.

Fairness

- a) The Fairness Committee first considered the complaint that, by moving the order within the programme of the footage that was secretly filmed in the beer tent and the interview in which Mr Swallow repeatedly replied "no comment" to the programme reporter's questions, Mr Swallow was treated unfairly. The Committee took particular account of whether the programme makers' actions were consistent with the obligation to avoid unjust or unfair treatment of individuals in programmes as set out in Rule 7.1 which states:

"Broadcasters must avoid unjust or unfair treatment of individuals or organisations in programmes"

It also considered whether the way in which Mr Swallow's contributions were edited resulted in those contributions having been represented unfairly as stated in Practice 7.6. Finally it considered whether the presentation of facts in the programme was consistent with the broadcaster's obligation to ensure that material facts had not been presented in a way which was unfair as outlined in Practice 7.9 which states:

"Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that... material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation..."

The Committee noted that the secret filming sequence in the programme was introduced by the narrator immediately after the 'no comment' interview with Mr Swallow as follows:

"I wanted to catch the Second Battle Group in a more relaxed moment. Once the public go home, the re-enactors hit the beer tent reserved for them"

Although the Committee acknowledged that this remark implied that the secret filming took place after the 'no comment' interview, the Committee considered that it was not unreasonable for the programme makers to use daytime footage of Mr Swallow with the SBG to explain the context and then subsequently to use the footage in the beer tent. The Committee considered that even though the order of the two sequences was not chronologically correct viewers' opinions of Mr Swallow would not have been affected one way or the other by the order in which these sequences were broadcast. Accordingly the Committee found that the sequence of these particular events as shown in the programme did not result in unfairness to Mr Swallow and therefore it did not uphold this head of complaint.

- b) The Committee next considered Mr Swallow's complaint that the reporter's interview technique was aggressive. The Committee took particular account of whether the programme makers' actions were consistent with the obligation to avoid unjust or unfair treatment of individuals in programmes (as set out in Rule 7.1). It also considered whether the programme makers were fair in their dealings with Mr Swallow in accordance with Practice 7.2. The Committee considered this head of complaint only insofar as it could result in unfairness in the programme as broadcast.

The Committee referred to the sequence in the programme in which Mr Swallow's 'no comment' responses were heard:

Commentary: *Finally I track down the senior officer on duty for the Second Battle Group, Glen Swallow.*

Reporter: *You've decided not to talk to the BBC – why's that?*

Mr Swallow: *No comment.*

Reporter: *You're wearing SS uniform – why do you choose to re-enact a Nazi racial supremacist military fighting...machine*

Mr Swallow: *No comment.*

Reporter: *Why is it impossible in England in the 21st century to answer my questions?*

Mr Swallow: *No comment.*

Reporter: *Thank you.*

It also considered a recording of the untransmitted footage of the incident. It noted that rather than walk away from the reporter's questioning – as other SBG members had done - Mr Swallow chose to remain and politely but firmly make the point that he had no comment to make. The Committee further noted that, on the material available to them, there was no evidence of aggression in respect of Mr Sweeney's conduct during the interview. As a result of these factors the Committee found that

no unfairness resulted from the interview technique in relation to the broadcast interview, and did not uphold this head of complaint.

Privacy

The Committee then turned to Mr Swallow's complaints that his privacy was unwarrantably infringed in both the making and broadcast of the programme.

- c) The Committee first considered Mr Swallow's complaint that the programme makers did not seek his permission to conduct any interview with him. The Committee noted that this complaint related to the conduct of the interview with Mr Swallow and therefore considered the complaint in relation to the making of the programme. The complaint in relation to the undercover footage filmed in the beer tent is dealt with under head e) below. The Committee took particular account of Rule 8.1 of the Code which indicates that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted. The Committee also took account of Practice 8.5 of the Code which states that any infringement of privacy in the making of a programme must be with the person's consent or be otherwise warranted.

The Committee considered whether Mr Swallow had a legitimate expectation of privacy in relation to the recording of the 'no comment' footage. In seeking to adjudicate on this issue, the Committee had regard to the meaning of 'legitimate expectation of privacy' as set out in the Code, which provides that:

'Legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all)...

The Committee noted that the footage was filmed at a public event, namely the War and Peace Event, during which no restrictions were placed on the programme makers by the event organisers. From the untransmitted footage viewed by the Committee, it was apparent that the programme makers had openly attended the War and Peace venue with their film equipment and had filmed openly.

The Committee further noted that in filming Mr Swallow the programme makers were engaged in recording short 'vox pop' style interviews designed to question the motivation of the re-enactors. The Committee noted from the untransmitted material that Mr Swallow had been present while the reporter had attempted to question another SBG member (who had refused to speak to him), and on being questioned himself Mr Swallow responded "*no comment*" several times, did not seek to remove himself from the filming and did not disclose any information of a private nature.

In the Committee's view all these factors, coupled with Mr Swallow's status as a recognisable figure identified with one of the largest German re-enactment groups at the event, served to diminish any expectation of privacy in relation to being interviewed by the programme makers. Accordingly, the Committee found that Mr Swallow did not have a legitimate expectation of privacy in relation to recording of the 'no comment' footage. Given this, the Committee found that Mr Swallow's privacy was not infringed in the making of the programme under this head of complaint, and it was not necessary for the Committee to further consider whether any infringement of privacy was warranted.

- d) The Committee next considered Mr Swallow's complaint that, because he was named in the programme, his privacy was unwarrantably infringed. The Committee

took particular account of Rule 8.1 of the Code which indicates that any infringement of privacy must be warranted, as well as Practice 8.6 which states that any infringement of privacy in the broadcast of the programme must be with the person's consent or be otherwise warranted.

In relation to this head of complaint the Committee noted that it related to Mr Swallow being named in the programme and therefore considered it as a complaint of unwarrantable infringement of privacy in the broadcast. Under this head of complaint, the Committee did not consider the fact that Mr Swallow was named in relation to his comments made in the beer tent. This aspect of Mr Swallow's identification in the programme is dealt with below under head e).

The Committee considered whether Mr Swallow had a legitimate expectation of privacy in relation to the broadcast of his first name and surname in the programme. The reporter in the programme commentary stated:

"...I was hoping to introduce myself to the fussy chap on the right, Glenn Swallow. He's the Sturmscharfuhrer – the boss man to you and me."

And later

"...Finally I track down the senior officer on duty for the Second Battle Group, Glen Swallow..."

The Committee noted that in this section of the programme Mr Swallow was named in the broadcast in the context of his leadership of the SBG. The BBC referred the Committee to the War and Peace Show website which is available to the public in which Glenn Swallow is referred to. This indicated that Glenn Swallow was already publicly associated with the SBG. As a result the Committee found that in the context in which he was named in the programme, described above, Mr Swallow did not have a legitimate expectation of privacy. Given this the Committee therefore found that Mr Swallow's privacy was not infringed in the broadcast of the programme under this head of complaint, and it was not necessary for the Committee to further consider whether any infringement of privacy was warranted.

- e) The final head of complaint related to the undercover filming of Mr Swallow in the beer tent. Mr Swallow complained that his privacy was infringed because he was secretly filmed having a private conversation in which he expressed his personal views. The Committee considered this head of complaint in relation to both the making and broadcast of the programme.

The making of the programme

In adjudicating on whether Mr Swallow's privacy had been infringed in the making of the programme, the Committee had regard to Rule 8.1 of the Code which indicates that any infringement of privacy must be warranted, as well as Practice 8.5 which states that any infringement of privacy in the making of the programme should be with the person's consent or be otherwise warranted. In addition the Committee considered Practice 8.9 which states that the means of obtaining material must be proportionate. Finally the Committee considered Practice 8.13 which states:

"Surreptitious filming or recording should only be used where it is warranted. Normally, it will only be warranted if:

- there is prima facie evidence of a story in the public interest; and

- there are reasonable grounds to suspect that further material evidence could be obtained; and
- it is necessary to the credibility and authenticity of the programme.“

The Committee first considered whether Mr Swallow had a legitimate expectation of privacy in relation to being secretly filmed. The Committee noted that the filming took place in the early hours of the morning and that according to Mr Swallow the programme makers only had permission to film between 09.00 and 18.00. However the Committee also noted that the BBC disputed that any restrictions had been placed on when filming could take place. The Committee also had regard to the statement by the organiser of the War and Peace Show which was provided at Mr Swallow's request. This stated that the beer tents were "effectively private parties for the benefit of the exhibitors after the show has closed to the general public". The Committee noted that the secretly recorded pictures and sound were strongly indicative of a noisy, even boisterous, social occasion at which some of those present had consumed quantities of alcohol. It noted that Mr Swallow was secretly recorded while in a situation in which he assumed he was having a private conversation.

In light of these considerations, the Committee concluded that Mr Swallow did have a legitimate expectation of privacy in relation to the material that was recorded in the beer tent.

The Committee proceeded to consider whether Mr Swallow's privacy had been infringed. Given the surreptitious manner of the filming the Committee found that there had been an infringement of Mr Swallow's privacy.

Having found an infringement of privacy the Committee then had to decide whether it was warranted. It had particular regard to Practice 8.13 (see above). It considered first whether there was prima facie evidence of a story in the public interest. It noted that the broadcaster had stated that research for the programme took place over two years during which time researchers witnessed numerous extreme and racist remarks at earlier War and Peace events. The broadcaster also stated that the programme researchers had "attended a session at which participants in the show sang Nazi songs glorifying Hitler and the Third Reich". As a result the Committee concluded that there was prima facie evidence of a story in the public interest which in particular related to alleged group activity involving glorification of Hitler and the Third Reich.

The Committee then considered whether the BBC had reasonable grounds to suspect further evidence was likely to be obtained by surreptitious filming. In the material provided to the Committee, the BBC described evidence it had that named individuals holding racist views would be attending the War and Peace event in 2007. It also said that in light of this information, senior editorial managers at the BBC authorised that the filming took place in the manner that it did. The Committee also noted that before the surreptitious filming took place the programme makers had spent the day at the War and Peace Event and stated they had observed attendees dressed in Nazi regalia and had seen other Nazi-type material on display. The Committee therefore concluded that there were reasonable grounds to suspect that further evidence was likely to be obtained by secret filming.

In relation to whether it was necessary for the credibility and authenticity of the programme to carry out the surreptitious filming, the Committee considered that given the nature of the material the programme makers sought to obtain, there was no alternative method to surreptitious filming available to the programme makers.

The Committee was therefore satisfied that undercover filming was a legitimate attempt to get further evidence of what had been revealed in the programme makers' research and was supported by previous research. The surreptitious filming was therefore found to be warranted. In the circumstances the Committee found that this was proportionate in a manner consistent with Practice 8.9 of the Code. Accordingly having considered all of the factors above the Committee found that the infringement of Mr Swallow's privacy in the making of the programme was warranted and this head of his complaint was not upheld.

The broadcast of the programme

In adjudicating on whether Mr Swallow's privacy had been infringed in the broadcast of the programme, the Committee had regard to Rule 8.1 of the Code which indicates that any infringement of privacy must be warranted, as well as Practice 8.6 which states that any infringement of privacy in the broadcast of the programme must be with the person's consent or be otherwise warranted. In addition the Committee considered Practice 8.14 which states that material gained by surreptitious filming should only be used when it is warranted.

In reaching its decision about whether Mr Swallow's privacy was infringed in the programme as broadcast, the Committee first considered whether Mr Swallow had a legitimate expectation of privacy in relation to the broadcast of comments made by him in the beer tent. It noted that the comments were surreptitiously recorded and that the broadcast comments included:

*"If there was an Waffen-SS, if it existed now, it's too late for me now, I'd join. I believe we should be sorting these ****ing Muslims out, personally"*

The Committee also noted that the broadcast was of a private conversation in a location that was described by the event organiser as "...effectively private...for the benefit of exhibitors after the show has closed to the general public..." In these circumstances the Committee found that Mr Swallow did have a legitimate expectation of privacy in relation to the broadcast of the secretly recorded footage.

In light of the above, the Committee then considered whether the Mr Swallow's privacy was infringed in the broadcast. In the Committee's view the broadcast of footage surreptitiously filmed, in which Mr Swallow had a legitimate expectation of privacy, and in which he was named, did infringe his privacy in the programme as broadcast.

Having decided that Mr Swallow's privacy was infringed in the broadcast of the programme, the Committee then considered whether this infringement was warranted. It considered the explanation of "warranted" contained in the Code which states:

"...where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, then the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest would include revealing or detecting crime, protecting public health or safety, exposing misleading claims made by individuals or organisations or disclosing incompetence that affects the public..."

The Committee considered whether the broadcast of comments by Mr Swallow in the beer tent were warranted for example by a public interest in broadcasting the

material. It first considered the full context of the broadcast material which immediately followed the material quoted at head b).

Reporter: *I wanted to catch the Second Battle Group in a more relaxed moment. Once the public go home, the re-enactors hit the beer tent reserved for them. But few of the SS seem to have slipped into something more comfortable. Apart from the odd zombie. None of the SBG would talk when our camera was around. So we used hidden cameras. Despite their website claiming they are not political, their senior officer - Mr No Comment himself - Glen Swallow, after quite a few beers was only too keen to share his politics.*

Mr Swallow: *If the Waffen-SS, if it existed now, it's too late for me now, I'd join. I believe we should be sorting these ****ing Muslims out, personally.*

Presenter: *In the pitch black in the early hours of the morning Swallow's face is not clear, but here he is talking with a chum from another SS re-enactment group about the British army.*

Mr Swallow: *All these [unclear] out of Africa. They're a waste of time, trouble."*

Other re-enactor: *Tell me about it, lazy shits.*

Mr Swallow: *They undermine the morale of the unit. All this PC **** that goes on. I got investigated at least three times, asking questions about the way you think, what you do. Now the Muslims have played their card. Now they've realised instead of looking at people like us which is on the system's side they should be looking at them. I know this truthfully because I've been told.*

Other re-enactor: *A nice gas chamber somewhere.*

The Committee took full account of the gravity of the offensive nature of the comments made by Mr Swallow and the other re-enactor. It also noted the BBC's argument that a significant public interest was served by the broadcast of the programme in that it showed that there were individuals with extreme racist views in a prominent re-enactment organisation. Furthermore, according to the BBC it was in the public interest to expose a senior member of the SGB re-enactment group, namely Mr Swallow, as holding racist opinions in light of the organisation's public disavowal of extremist viewpoints.

However the Committee was not persuaded that the public interest in broadcasting these comments, in which Mr Swallow was named, was sufficient to warrant the infringement of Mr Swallow's privacy. In particular the Committee noted that Mr Swallow holds no publicly accountable office, nor does the SBG re-enactment group of which he is a member hold any publicly accountable function, or receive public money. It further noted that the filming was at a private, social occasion at which alcohol was served, indeed the programme recognised that the re-enactors had "hit the beer tent" and Mr Swallow was filmed by the programme makers after he had had "quite a few beers".

The Committee concluded that although Mr Swallow's highly offensive views broadcast in the programme were at odds with the publicly stated principles of the organisation in which he is a prominent member, for the reasons given above the public interest in naming him and broadcasting the comments did not outweigh the infringement of his privacy. The Committee therefore found that the infringement of Mr Swallow's privacy in relation to the broadcast of the programme was not warranted.

Accordingly the complaints of unfair treatment and unwarranted infringement of privacy in the making of the programme were not upheld. The complaint of unwarranted infringement of privacy in the broadcast of the programme (at head e)) was upheld.

Other Programmes Not in Breach/Resolved

22 October to 4 November

Programme	Transmission Date	Channel	Category	No of Complaints
20 Steps of Madonna	16/10/2008	Smash Hits	Sex/Nudity	1
6-0-6	17/09/2008	BBC Radio 5 Live	Offensive Language	1
8 Out Of 10 Cats	31/10/2008	Channel 4	Offensive Language	1
All Star Family Fortunes	25/10/2008	ITV1	Generally Accepted Standards	1
BBC Weather Forecast	n/a	BBC	Inaccuracy/Misleading	1
Bear Grylls: Born Survivor	19/10/2008	Channel 4	Animal Welfare	4
Bear Grylls: Born Survivor	26/10/2008	Channel 4	Animal Welfare	7
Breakfast with Richard Wyatt	02/10/2008	BBC Radio Bristol	Generally Accepted Standards	1
Bremner, Bird and Fortune: Silly Money	02/11/2008	Channel 4	Offensive Language	1
Britain's Best Breaks	23/07/2008	Red TV	Commercial References	1
Britain's Best Dish	24/10/2008	ITV1	Inaccuracy/Misleading	1
Bush and Troy	23/10/2008	GWR	Offensive Language	1
Car of The Year 2008	26/10/2008	Dave	Offensive Language	1
Casualty	04/10/2008	BBC1	Religious Offence	1
Channel 4 News	16/10/2008	Channel 4	Generally Accepted Standards	1
Channel 4 News	07/10/2008	Channel 4	Due Impartiality/Bias	4
Come Dine With Me	22/10/2008	Channel 4	Offensive Language	1
Coming of Age	28/10/2008	BBC3	Generally Accepted Standards	1
Continuity preceding Neighbours	16/09/2008	Five	Generally Accepted Standards	11
Coronation Street	27/10/2008	ITV1	Generally Accepted Standards	4
Coronation Street	08/10/2008	ITV1	Generally Accepted Standards	2
Coronation Street	22/10/2008	ITV1	Generally Accepted Standards	2
Coronation Street	08/10/2008	ITV1	Due Impartiality/Bias	2
Coronation Street	24/10/2008	ITV1	Generally Accepted Standards	1
Crimewatch UK Uncut	25/08/2008	Bravo	Violence	1
Cutting Edge: Bobski the Builder	16/10/2008	Channel 4	Generally Accepted Standards	1
Dead Set (Trailer)	23/10/2008	Channel 4	Generally Accepted Standards	1
Dispatches: Undercover Mosque - The Return	01/09/2008	Channel 4	Due Impartiality/Bias	11
Dispatches: Undercover Mosque - The Return	01/09/2008	Channel 4	Crime (incite/encourage)	2
Dispatches: Undercover Mosque - The Return	01/09/2008	Channel 4	Religious Offence	2
Dispatches: Undercover Mosque - The Return	01/09/2008	Channel 4	Generally Accepted Standards	1
Don't Tell The Bride	02/10/2008	BBC3	Dangerous Behaviour	1

Eastenders	16/10/2008	BBC1	Generally Accepted Standards	1
Eastenders	07/10/2008	BBC1	Generally Accepted Standards	1
Eastenders	24/10/2008	BBC1	Generally Accepted Standards	1
Embarrassing Teenage Bodies (Trailer)	19/10/2008	Channel 4	Sex/Nudity	8
Emmerdale	14/10/2008	ITV1	Suicide/Self Harm	1
F1 Racing - Sony HDTV sponsor credit	n/a	ITV1	Violence	1
Family Guy trail	15/10/2008	FX	Generally Accepted Standards	1
Fifth Gear	06/10/2008	Dave	Dangerous Behaviour	1
Film 2008 with Jonathan Ross	26/10/2008	BBC2	Violence	1
Five News	13/10/2008	Five	Generally Accepted Standards	1
Five News	09/10/2008	Five	Generally Accepted Standards	1
Five News	22/10/2008	Five	Generally Accepted Standards	1
Fonejacker	15/10/2008	E4	Religious Offence	2
Fonejacker	22/10/2008	E4	Religious Offence	1
For One Night Only	14/09/2008	ITV1	Generally Accepted Standards	7
For One Night Only	12/10/2008	ITV1	Generally Accepted Standards	1
Fox News	15/10/2008	Fox News	Due Impartiality/Bias	1
Fox News Live	n/a	Fox News	Due Impartiality/Bias	1
Frank Skinner Live at the Birmingham Hippodrome	17/10/2008	Channel 4	Generally Accepted Standards	1
Friends	01/11/2008	Channel 4	Sex/Nudity	1
Futurama	14/10/2008	Sky One	Generally Accepted Standards	1
GMTV	01/09/2008	ITV1	Inaccuracy/Misleading	1
Generation Sex (Trailer)	20/10/2008	Five	Generally Accepted Standards	1
Going For Gold	n/a	Five	Competitions	2
Harsh Times	27/10/2008	Sky Movies Drama	Offensive Language	1
Have I Got News For You	31/10/2008	BBC1	Generally Accepted Standards	1
Hogzilla	07/10/2008	Nat Geo Wild	Animal Welfare	1
Hollyoaks	16/10/2008	Channel 4	Inaccuracy/Misleading	1
ITV News	21/10/2008	ITV1	Generally Accepted Standards	1
Ian Wright and Adrian Durham	01/10/2008	Talksport	Generally Accepted Standards	1
Indian Idol	11/10/2008	Sony TV Asia	U18's in Programmes	1
Jeremy Vine	17/10/2008	BBC Radio 2	Generally Accepted Standards	1
Jeyes sponsorship of The Bill	n/a	ITV1	Dangerous Behaviour	1

Jon Gaunt	13/10/2008	Talksport	Generally Accepted Standards	1
KCR 106.7 Knowsley	n/a	KCR 106.7	Format	1
Katy Brand's Big Ass Show	07/10/2008	ITV2	Religious Offence	1
Kia Motors sponsorship of CSI	21/10/2008	Five	Generally Accepted Standards	1
Look North	06/10/2008	BBC1 North	Generally Accepted Standards	2
Loose Women	04/11/2008	ITV1	Generally Accepted Standards	1
Loose Women	28/10/2008	ITV1	Generally Accepted Standards	1
Loose Women-Maltesers Sponsorship	n/a	ITV1	Generally Accepted Standards	1
Martin & Sue	27/10/2008	Essex Fm	Generally Accepted Standards	1
Midsomer Murders	09/10/2008	ITV1	Offensive Language	3
Miss Naked Beauty	28/10/2008	Channel 4	Generally Accepted Standards	2
Miss Naked Beauty	21/10/2008	Channel 4	Sex/Nudity	1
Mock the Week	08/10/2008	BBC2	Generally Accepted Standards	1
Most Haunted - Halloween Special (Trailer)	n/a	Living TV	Generally Accepted Standards	1
Mum, Heroin and Me	23/10/2008	Channel 4	Substance Abuse	1
NDTV Imagine	n/a	NDTV Imagine	Advertising	1
Neighbours (continuity announcement)	21/10/2008	Five	Generally Accepted Standards	1
Peter Kay's Britain's Got the Pop Factor	12/10/2008	Channel 4	Offensive Language	21
Peter Kay's Britain's Got the Pop Factor	12/10/2008	Channel 4	Generally Accepted Standards	11
Peter Kay's Britain's Got the Pop Factor	12/10/2008	Channel 4	Religious Offence	1
Politics Now	25/09/2008	STV	Elections/Referendums	1
Public v Police: Tonight	24/10/2008	ITV1	Due Impartiality/Bias	4
Rosemary Shrager's School for Cooks	28/10/2008	ITV1	Generally Accepted Standards	1
Saw	25/10/2008	Channel 4	Violence	2
Scene Stealers	04/10/2008	BBC2	Crime (incite/encourage)	1
Signal 1 Breakfast	29/09/2008	Signal 1	Exorcism/Occult/Paranormal	1
Sky Bet Sponsorship Credit	n/a	Sky Sports	Generally Accepted Standards	1
Sky Sports News (Trailer)	17/10/2008	Sky Sports News	Offensive Language	1
Sport Scene	24/09/2008	BBC1 Scotland	Religious Offence	1
Steve Allen	12/10/2008	LBC	Generally Accepted Standards	1
Strictly Come Dancing	18/10/2008	BBC1	Inaccuracy/Misleading	1
Strictly Come Dancing	25/10/2008	BBC1	Generally Accepted Standards	1
Sunshine	07/10/2008	BBC1	Dangerous Behaviour	1
T4	19/10/2008	Channel 4	Generally Accepted Standards	4

The Alan Titchmarsh Show	n/a	ITV1	Generally Accepted Standards	1
The Alan Titchmarsh Show	08/10/2008	ITV1	Generally Accepted Standards	1
The Bill	16/10/2008	ITV1	Offensive Language	1
The Bill	16/10/2008	ITV1	Generally Accepted Standards	2
The Breakfast Show	14/10/2008	Magic 105.4	Competitions	1
The Charlotte Church Show	07/08/2008	Channel 4	Generally Accepted Standards	1
The Family	n/a	Channel 4	Animal Welfare	1
The Family	08/10/2008	Channel 4	Generally Accepted Standards	1
The Fashion Show	23/10/2008	ITV2 +1	Generally Accepted Standards	1
The Gadget Show	20/10/2008	Five	Crime (incite/encourage)	1
The Jeremy Kyle Show	n/a	ITV1	Generally Accepted Standards	1
The Kevin Bishop Show	22/08/2008	Channel 4	Religious Offence	1
The ONE Show	16/10/2008	BBC1	Generally Accepted Standards	1
The Paul O'Grady Show	29/10/2008	Channel 4	Generally Accepted Standards	2
The Restaurant	09/10/2008	BBC2	Offensive Language	3
The Restaurant	n/a	BBC2	Offensive Language	1
The Secret Millionaire	19/08/2008	Channel 4	Due Impartiality/Bias	1
The Secret Policeman's Ball 2008	05/10/2008	Channel 4	Generally Accepted Standards	4
The Simpsons	13/10/2008	Channel 4	Violence	1
The Wright Stuff	07/10/2008	Five	Inaccuracy/Misleading	1
The X Factor	25/10/2008	ITV1	Generally Accepted Standards	1
The X Factor	18/10/2008	ITV1	Generally Accepted Standards	1
The X Factor	18/10/2008	ITV1	Sex/Nudity	1
The X Factor	18/10/2008	ITV1	Undue Prominence	1
The Xtra Factor	11/10/2008	ITV2	Generally Accepted Standards	1
This Morning	10/10/2008	ITV1	Sex/Nudity	1
This Morning	22/10/2008	ITV1	Generally Accepted Standards	1
Today	07/10/2008	BBC Radio 4	Generally Accepted Standards	1
Warren Hayden Show	02/10/2008	Ocean FM	Competitions	1
Weekend Friend	n/a	Radio Borders	Competitions	1
When Women Rule the World	12/10/2008	Channel 4	Generally Accepted Standards	1