

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 16 December 2009 and covers all programmes broadcast on or after 16 December 2009. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>.

Note: Programmes broadcast prior to 16 December 2009 are covered by the 2005 Code which came into effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). The 2005 Code can be found at http://www.ofcom.org.uk/tv/ifi/codes/bcode_2005/.

- 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's policy to describe fully the content in television and radio programmes that is subject to broadcast investigations. Some of the language and descriptions used in Ofcom's Broadcast Bulletin may therefore cause offence.

Standards cases

Notice of Sanction

Friendly TV

Various programmes, various dates between 3 April 2009 and 5 July 2009

Bedroom TV

Various programmes, 4 April 2009 at 00:55; and 22 April 2009 at 22:20

Introduction

Springdoo Media Limited owns and operates the television service Friendly TV. User Generated Broadcasting Limited owns and operates the television service Bedroom TV. Both Friendly TV and Bedroom TV provide daytime chat and (post watershed) adult sex chat services encouraging viewers to call a premium rate service ("PRS") telephone number and talk to an onscreen presenter.

Springdoo Media Limited and User Generated Broadcasting Limited are sister companies under common ownership and control. All editorial compliance decisions regarding the companies were taken by a centralised compliance team.

On 26 February 2010, Ofcom published its decision to impose a statutory sanction on Springdoo Media Limited in respect of its Friendly TV service¹, for seriously and repeatedly breaching the Ofcom Broadcasting Code and for failing to comply with condition 11 of its Television Licensable Content Service Licence ("licence"). Ofcom also published its decision to impose a statutory sanction on User Generated Broadcasting Limited in respect of its Bedroom TV service², also for failing to comply with condition 11 of its licence. In total, Ofcom imposed a total financial penalty of **£24,000**.

Summary of Decisions

Springdoo Media Limited (owner of Friendly TV) was found in breach of the following Code rules:

- Rule 1.6: transition to more adult material post-watershed;
Rule 2.1: generally accepted standards; and
Rule 2.3: material that may cause offence must be justified by context.

Ofcom found Springdoo Media Limited in breach of these rules due to the following conduct:

- Broadcasting strong and explicit sexual images which were not suitable for broadcast in the period immediately following the 21:00 watershed on a service which was freely available to view without access restrictions (breach of Rule 1.6). The broadcast of such images, so close to the watershed, caused serious concern for Ofcom; and

¹ In January 2010 Friendly TV ceased broadcasting.

² In November 2009 Bedroom TV ceased broadcasting.

- Broadcasting sexual material that would have exceeded the expectations of viewers watching a channel without access restrictions, especially those who may have come across this content unawares (breaches of Rules 2.1 and 2.3).

For the reasons set out in the adjudication Ofcom imposed a financial penalty (payable to HM Paymaster General) of **£6,000** in respect of these Code breaches by Springdoo Media Limited.

Springdoo Media Limited (owner of Friendly TV) and User Generated Broadcasting Limited (owner of Bedroom TV) were also both found in breach of the following condition of their licences:

Condition 11: (1) The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings in sound and vision of any programme which is the subject matter of a Standards Complaint...
(2) In particular, the Licensee shall: (a) make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein; and (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction.

Ofcom found Springdoo Media Limited and User Generated Broadcasting Limited in breach of this licence condition for failing to provide, when requested, recordings of the following programmes:

- Friendly TV, 3 April 2009, Midday
- Friendly TV, 20 June 2009, 02:00
- Bedroom TV, 4 April 2009, 00:55
- Bedroom TV, 22 April 2009, 22:20

For the reasons set out in this adjudication Ofcom imposed financial penalties (payable to HM Paymaster General) on Springdoo Media Limited and User Generated Broadcasting Limited of **£6,000** and **£12,000** respectively for breaches of condition 11 of their licences.

The full adjudication is available at:

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

Notice of Direction

Kashmir Broadcasting Corporation (“KBC”) holds a broadcasting licence for the television service DBN.

During 2009 Ofcom requested, on several occasions, a copy of KBC’s agreement with DBN in connection with the provision of the service. KBC has repeatedly failed to comply with these requests.

On 1 March 2010, under the terms of its licence, Ofcom directed KBC to comply with the following Direction.

TLCS 865 – “DBN” held by Kashmir Broadcasting Corporation Limited (“the Licence”)

Pursuant to condition 17(1) of TLCS licence number 865, Ofcom now directs Kashmir Broadcasting Corporation Limited (“KBC”) to provide the following information:

1. A copy of KBC’s lease agreement with DBN. We have requested a copy of this agreement in correspondence dated 9 February 2009, 16 March 2009, 9 April 2009, 8 May 2009 and 22 June 2009; and
2. Details of the procedures KBC has adopted and requires to be observed by those involved in providing the licensed service to ensure compliance with Licence Condition 17(2). In its breach finding of 23 March 2009 Ofcom reminded KBC of its compliance obligations under the Licence; and
3. Details of how KBC is exercising general control over which programmes and other services and facilities are comprised in the DBN service.

Ofcom requires this information in order to determine whether KBC is providing the DBN service in accordance with section 362(2) of the Communications Act 2003 and is complying with its obligations as a licensee. The information should be provided by no later than 15 March 2010.

Failure to comply with a direction given to it by Ofcom would be a serious breach by KBC of Licence Condition 17(1) which could give rise to consideration of a statutory sanction including revocation of the Licence.

In Breach

Bang Babes – Various broadcasts

Tease Me, 7 November 2009, 23:30

Tease Me, 13 November 2009, 23:00

Tease Me, 24 November 2009, 22:00 - 23:59

Tease Me, 25 November 2009, 00:00 - 05:30

Introduction

Bang Babes is adult sex chat programming, freely available without mandatory restricted access on the channel *Tease Me* (Sky channel number 912). The channel is situated in the 'adult' section of the Sky electronic programme guide ("EPG"). It broadcasts programmes after the 21:00 watershed based on interactive adult sex chat services: viewers are invited to contact onscreen female presenters via premium rate telephony services ("PRS"). The female presenters dress and behave in a sexually provocative way while encouraging viewers to contact the PRS numbers.

Ofcom received a complaint about the following broadcasts. The complainant said that the content transmitted was too sexually explicit to be available without mandatory restricted access.

Bang Babes, Tease Me, 7 November 2009, 23:30

Ofcom noted that the broadcast featured two presenters. One was wearing black tights with large holes in them and a black thong. The other was wearing a red thong and red tights. Both women were topless. The presenter in black was shown apparently licking and spitting on the other presenter's genital area. She also pulled down the other presenter's thong, pulled her buttocks apart and licked her anal area. During the broadcast the presenter in black was shown bent over on all fours with her thong moved to the side to briefly reveal her genital area. The presenters licked and sucked each other's breasts. The broadcast also included close up shots between the presenters' legs while they apparently touched and rubbed each other's genital area.

Bang Babes, Tease Me, 13 November 2009, 23:00

Ofcom noted that the broadcast featured a presenter wearing a black thong and black stockings. Her top was pulled down to reveal her breasts. During the broadcast she adopted various sexual positions, including kneeling on all fours with her buttocks to camera and also lying on her back with her legs spread wide apart. While doing so the presenter repeatedly: pulled her buttocks apart to reveal her anus and genital area; spat on her fingers and vigorously rubbed saliva around her anal and genital area and rubbed her thong against her genitals; opened her legs to expose extensive labial detail; mimed the insertion of an object into her anus and the performance of oral sex on a man using her fingers; and spat saliva over her breasts.

Bang Babes, Tease Me, 24 November 2009, 22:00- 23:59

This broadcast featured two presenters (the same who appeared in the *Bang Babes, Tease Me, 7 November 2009, 23:30* broadcast). One presenter was wearing black fishnet stockings and a black thong. She was not wearing a top. The other presenter was wearing a red bra pulled down to expose her breasts, a red thong and red

stockings with large holes in them. During the broadcast the presenters were shown apparently licking each other's genital and anal area in a realistic way and on one occasion this act was carried out while one of the presenters had pulled her thong to the side. The presenters also licked each other's breasts, spat into each other's mouths and apparently simulated masturbation on each other in a realistic way by rubbing each other's genital area. The presenter in black was also shown miming oral sex using a phone and lightly slapping the other presenter across the face.

Bang Babes, Tease Me, 25 November 2009, 00:00 - 05.30

This broadcast also featured two presenters (the same who appeared in the *Tease Me, 7 November 2009, 23:30* and the *Tease Me, 24 November 2009, 22:00- 23:59* broadcasts).

One presenter was wearing a skimpy pink thong, pink socks and pink fingerless gloves. Her pink bra was pulled down to expose her breasts. The other presenter was wearing a skimpy red thong and black fishnet stockings. Her black fishnet top was pulled down to show her breasts. During the broadcast the presenter wearing pink pulled the other presenter's thong to the side and briefly but clearly inserted a lollypop into her vagina. The two presenters then sucked the lollypop. In addition, the presenters were shown bent over on all fours at various times, and due to the skimpy thongs they were wearing genital and anal detail was shown. The presenters touched and apparently licked each other's genital and anal areas in a realistic way. The presenters were also shown: miming the insertion of an object into their anus; miming oral sex using their fingers and a phone; spanking each other; and licking each other's breasts.

Promotion of the www.bangbabes.tv website address – for all broadcasts

In addition, after viewing the content complained of Ofcom noted that during all four broadcasts the website 'www.bangbabes.tv' was promoted. When accessed by Ofcom this website featured images of a strong sexual nature equivalent to BBFC R18-rated material ("R18-rated equivalent material") which could be readily viewed without appropriate protections. Although this R18-rated equivalent material was not broadcast on-air, Ofcom was concerned that it appeared on a website being promoted on Ofcom licensed services freely available without mandatory restricted access from 21.00.

Relevant Code rules

Ofcom requested comments from Bang Channels Limited ("Bang Channels" or "the Licensee") – which holds the licences for and complies the Tease Me channels - in relation to the following:

Bang Babes, Tease Me, 7 November 2009, 23:30:

Bang Babes, Tease Me, 13 November 2009, 23:00; and

Bang Babes, Tease Me, 24 November 2009, 22:00- 23:59

- Rule 1.24¹ ('adult-sex' material is restricted to overnight services with mandatory restricted access);
- Rule 2.1 (generally accepted standards); and

¹ Please note that on 16 December 2009, a revised version of the Code was issued. For programmes broadcast on or after 16 December 2009, Rule 1.18 will apply.

- Rule 2.3 (material which may cause offence must be justified by context) of the Code.

Concerning *Bang Babes, Tease Me*, 25 November 2009, 00:00 - 05:30, Ofcom asked for comments under Rule 1.25² (“BBFC R18-rated films or their equivalent must not be broadcast”).

Ofcom sought comments in respect of the strong sexual nature of some of the content; and the promotion of a website featuring unrestricted R18-rated equivalent material.

Response

In relation to each broadcast the Licensee stated the following.

Bang Babes, Tease Me, 7 November 2009, 23:30

With regard to Rule 1.24, Bang Channels said it did not consider the material was of sufficient strength to constitute ‘adult-sex’ material and therefore there was no requirement for the service to have mandatory restricted access. With regard to Rules 2.1 and 2.3, the Licensee stated that the content would have conformed to the expectations of viewers of a channel of this nature and at this time of night. The Licensee continued that sufficient contextual justification was provided because of the nature and position of the channel in the EPG, clear signposting and a warning about the nature of the content (see infomercial referred to as regards *Tease Me*, 13 November 2009, 23:00 below). It therefore considered that generally accepted standards were applied.

Bang Babes, Tease Me, 13 November 2009, 23:00

With regard to Rule 1.24, the Licensee said that it did not consider the content broadcast to be ‘adult-sex’ material and therefore it did not “have a case to answer”.

With reference to Rules 2.1 and 2.3, it did not accept that the material exceeded generally accepted standards. It said that the content was broadcast well after the watershed on an ‘adult’ TV channel in the ‘adult’ section of the EPG. It stated that an infomercial was broadcast at 21:00 (as it is every night) before the *Bang Babes* programming started, advising viewers that the upcoming programming was adult in nature and providing instructions on how to manually restrict the channel if viewers did not wish to see it in future. Bang Channels stated that it did not believe the transmission was offensive, given the context of the broadcast, and did not accept that the presenter simulated masturbation.

Bang Babes, Tease Me, 24 November 2009, 22:00- 23:59

With regard to Rule 1.24, the broadcaster stated that it did not consider the material was of sufficient strength to constitute ‘adult-sex’ material and therefore there was no requirement for the service to be restricted. With regard to Rules 2.1 and 2.3, the Licensee stated that the content would have conformed to the expectations of viewers of a channel of this nature and at this time of night. The Licensee continued that sufficient contextual justification was provided to the material because of the

² Please note that on 16 December 2009, a revised version of the Code was issued. For programmes broadcast on or after 16 December 2009, Rule 1.17 will apply.

nature and position of the channel, clear signposting and a warning about the nature of the content (the infomercial mentioned above). It therefore considered that generally accepted standards were applied.

Bang Babes, Tease Me, 25 November 2009, 00:00 - 05.30

With regard to Rule 1.25, Bang Channels did not accept that the broadcast contained R18-rated equivalent material. However, it accepted that the material which included the insertion of a lollypop into the presenter's vagina may have exceeded viewer expectations for a channel of this nature. The Licensee continued that the channel's internal compliance guidelines were ignored and this resulted in the transmission of content that was not suitable for broadcast. It said that the broadcast was a live transmission and that appropriate action was not taken to suspend the transmission. It stated that it has now terminated the contract of the producer who was in charge of the transmission. Bang Channels also stated that the presenters in this broadcast were suspended and returned to work a month later having undergone further compliance training. The broadcaster highlighted that these steps were taken before any complaint was made about the broadcast.

With regard to the rest of the material in the broadcast, the broadcaster stated that in respect of Rule 1.24, it did not consider the material was of sufficient strength to constitute 'adult-sex' material. With regard to Rules 2.1 and 2.3, it said that the material was broadcast well after the watershed in the adult section of the EPG, which was clearly labelled and had suitable access restrictions in place. Therefore it would have met audience expectations. The Licensee continued that sufficient contextual justification was provided for the material because of the nature and position of the channel, clear signposting and a warning about the nature of the content. It therefore considered that generally accepted standards were applied.

Promotion of the www.bangbabes.tv website address – for all broadcasts

With regard the promotion of the website www.bangbabes.tv for all three broadcasts, the broadcaster accepted that the website contained R18-rated equivalent material. It stated that the material in question was advertising a third party website and it was not aware of the kind of material the third party provider would be advertising when they sold them the advertising space. It said that as soon as the material was bought to its attention it removed the material and ordered a complete review of all its websites. The broadcaster continued that it was "disappointing" that Ofcom did not bring this to matter to its attention sooner so that it could have acted to remove the material faster.

Decision

Ofcom has a duty to ensure that generally accepted standards are applied to the content of radio and television services so as to provide adequate protection from the inclusion of harmful or offensive material. In relation to generally accepted standards, including those in relation to sexual material, Ofcom recognises that what is and is not generally accepted is subject to change over time. When deciding whether or not particular broadcast content is likely to fall within generally accepted standards it is necessary to assess the character of the content itself and the context in which it is provided.

In relation to the broadcast of material of a sexual nature this normally involves assessing the strength or explicitness of the content and balancing it against the particular editorial or contextual justification for broadcasting the content. Ofcom

seeks to ensure that material of a sexual nature, when broadcast, is editorially justified, appropriately scheduled and where necessary access is restricted to adults.

Broadcasters are allowed to broadcast after the watershed (and without other access restrictions) material which is of a strong sexual nature as long as it is justified by the context. However, this material must not be considered to be 'adult sex' material (i.e. it is not strong sexual images which are broadcast for the primary purpose of sexual arousal or stimulation), or BBFC R-18 rated films or their equivalent.

Rule 1.24 of the Code requires 'adult-sex' material to be broadcast only between 22:00 and 05:30, and then only if mandatory restricted access is in place. In judging whether material is 'adult sex material', and therefore is subject to this rule, broadcasters should be guided by the definitions used by the BBFC when referring to "sex-works at '18'". This has been supplemented by various decisions of Ofcom. Through a series of published findings, and published decisions of the Content Sanctions Committee, Ofcom has made clear what constitutes 'adult-sex' material³.

Rule 1.25 of the Code says that BBFC R18-rated films or equivalent material must not be broadcast. Ofcom guidance makes clear that broadcasters should be guided by the BBFC guidelines on 'R18' works in deciding what is equivalent to BBFC R18-rated material. The BBFC states that: "The 'R18' category is a special and legally restricted classification primarily for explicit works of consenting sex..." Various Ofcom decisions have clarified what Ofcom has regarded as content equivalent to R-18 rated material⁴.

³ For example:

- Sanctions decision against Square 1 Management Limited concerning its channel Smile TV, dated 10 July 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/SmileTV.pdf;
- Breach Finding on SportxxxBabes, Ofcom Broadcast Bulletin 115, dated 11 August 2008; http://www.ofcom.org.uk/tv/obb/prog_cb/obb115/;
- Breach Finding on SportxxxBabes, Ofcom Broadcast Bulletin 119, dated 13 October 2008; http://www.ofcom.org.uk/tv/obb/prog_cb/obb119/;
- Sanctions decision against Satellite Entertainment Limited concerning its channel SportxxxBabes, dated 26 August 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf; and
- Sanctions decision against Satellite Entertainment Limited concerning its channel SportxxxBabes, dated 26 August 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf;
- Sanction decision against Playboy TV UK/Benelux Limited concerning its channel Playboy One, dated 2 April 2009, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/playboytv.pdf;
- Breach Finding on Playboy One, Broadcast Bulletin 134, http://www.ofcom.org.uk/tv/obb/prog_cb/obb134/;
- Breach Finding on Live 960, Broadcast Bulletin 149, http://www.ofcom.org.uk/tv/obb/prog_cb/obb149/;
- Breach Finding on Bang Babes, Broadcast Bulletin 151, http://www.ofcom.org.uk/tv/obb/prog_cb/obb151/; and
- Breach Finding on Bang Babes, Broadcast Bulletin 152, http://www.ofcom.org.uk/tv/obb/prog_cb/obb152/Issue152.pdf

⁴ For example, decisions of the Ofcom Content Sanctions Committee in the following cases:

- RHF Productions Ltd dated 18 May 2009 (http://www.ofcom.org.uk/tv/obb/ocsc_adjud/rhfportland.pdf); and
- Portland Enterprises (C.I.) Limited dated 23 July 2008 (http://www.ofcom.org.uk/tv/obb/ocsc_adjud/portland.pdf)

In considering the contents of each of these programmes Ofcom asked itself three questions as relevant in each case:

- was the content of the programme equivalent to that in a BBFC R18-rated film;
- was the content of the programme 'adult-sex' material; and,
- did the broadcaster take appropriate steps to ensure that it was provided with sufficient contextual justification so as to ensure that it fell within generally accepted standards.

Bang Babes, Tease Me, 25 November 2009, 00:00 - 05:30

Rule 1.25 says that BBFC R18-rated films or equivalent material must not be broadcast. Ofcom notes that this broadcast included content that showed a presenter pull her co-presenter's thong to the side and briefly but clearly insert a lollypop into her vagina. Ofcom considered this particular content to be R18-rated equivalent material as it clearly showed – albeit briefly - images of vaginal penetration. This is consistent with 'R18' material, as defined by BBFC guidance. The broadcast was therefore in breach of Rule 1.25 of the Code.

Bang Babes, Tease Me, 7 November 2009, 23:30

Bang Babes, Tease Me, 24 November 2009, 22:00 - 23:59

Ofcom considered the above two broadcasts together in respect of Rules 1.24, 2.1 and 2.3 of the Code. Ofcom notes that both broadcasts complained of featured the same two presenters.

In relation to Rule 1.24, Ofcom examined the content of these broadcasts and considered that it was of a very strong sexual nature and on some occasions contained explicit images of genital and anal detail. For example, during these broadcasts the presenters were shown apparently performing masturbation and oral sex on each other in a realistic by: licking and spitting on each other's genital area; pulling each other's buttocks apart and licking their anal area; pulling their thongs to the side to briefly reveal genital area; touching and rubbing each other's genital area; lightly slapping each other across the face; and spitting into each other's mouths. In Ofcom's opinion, a viewer could reasonably have perceived these sexual acts as real. Ofcom took account of the fact that some of the sequences were several minutes each in duration, and in some cases, were repeated and shot in close-up. In Ofcom's view, the primary purpose of broadcasting this material was clearly sexual arousal. Further, given the above, the material was, in Ofcom's view, of a strong sexual nature. Having assessed the programmes' content and purpose, Ofcom considered that the material broadcast was of a strength that should be behind mandatory restricted access. It was however broadcast without mandatory restricted access, and was therefore in breach of Rule 1.24.

Ofcom is concerned that the Licensee considers material, such as simulated masturbation and oral sex in a sexual context such as this, to be acceptable for broadcast without mandatory restricted access.

These broadcasts were therefore in breach of Rule 1.24 of the Code.

Ofcom then went on to consider whether these broadcasts were also in breach of Rules 2.1 and 2.3 of the Code. In light of Ofcom's view that these programmes contained material that constituted 'adult sex' material and therefore unsuitable for

broadcast without mandatory restricted access, the broadcasts were clearly capable of causing considerable offence. Ofcom therefore examined the extent to which there were any particular editorial or contextual factors that might have limited the potential for offence. Ofcom noted that the programmes were preceded at around 21:00 by some information giving advice to viewers about the nature of the content to follow. Ofcom also noted that the programmes were broadcast after the watershed and that viewers tend to expect stronger sexual material to be shown later at night. Ofcom also took account of the fact that the *Tease Me* channel was positioned in the 'adult' section of the Sky EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the EPG than would be expected to be included on other channels.

However, in this case, given the prolonged and frequent scenes of a very strong sexual nature and the inclusion of strong images of genital detail (provided for the purpose of sexual arousal) the time of broadcast and location of the channel were not sufficient to justify the broadcast of the material. The material shown was so strongly sexual that it would have exceeded the likely expectation of the vast majority of the audience. Ofcom concluded that this content was clearly not justified by the context and was in breach of generally accepted standards.

These broadcasts were also therefore in breach of Rules 2.1 and 2.3 of the Code.

Bang Babes, Tease Me, 13 November 2009, 23:00

Ofcom considered this broadcast in respect of Rules 1.24, 2.1 and 2.3 of the Code.

In relation to Rule 1.24, Ofcom examined the content of this broadcast and considered that it was of a very strong sexual nature and on some occasions contained explicit images of genital and anal detail. For example, during these broadcasts the presenter was shown apparently performing masturbation on herself by spitting on her fingers and repeatedly rubbing saliva on her genital area and rubbing her thong against her genitals. In Ofcom's opinion, a viewer could reasonably have perceived these sexual acts as real. The presenter was also shown pulling her buttocks apart to reveal her anus and extensive labial detail. Ofcom took account of the fact that the sequences were several minutes each in duration, and in some cases, were repeated. In Ofcom's view, the primary purpose of broadcasting this material was clearly sexual arousal. Further given the above, the material was, in Ofcom's view, of a strong sexual nature. Having assessed the programmes' content and purpose, Ofcom considered that the material broadcast constituted 'adult-sex' material. Its broadcast, without mandatory restricted access, was therefore in breach of Rule 1.24.

Ofcom is concerned that the Licensee considers material, such as extensive genital and anal detail and simulated masturbation in a sexual context such as this, to be acceptable for broadcast without mandatory restricted access.

This broadcast was therefore in breach of Rule 1.24 of the Code.

Ofcom then went on to consider whether this broadcast was also in breach of Rules 2.1 and 2.3 of the Code. In light of Ofcom's view that the programme contained material that constituted 'adult sex' material and was therefore unsuitable for broadcast without mandatory restricted access, the broadcast was clearly capable of causing considerable offence. Ofcom therefore examined the extent to which there were any particular editorial or contextual factors that might have limited the potential for offence. Ofcom noted that the programmes were preceded at around 21:00 by

some information giving advice to viewers about the nature of the content to follow. Ofcom also noted that the programmes were broadcast quite a long time after the watershed and that viewers also tend to expect stronger sexual material to be shown later at night. Ofcom also took account of the fact that the Tease Me channel was positioned in the 'adult' section of the Sky EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the EPG than would be expected to be included on other channels.

However, in this case, given the prolonged and frequent scenes of a very strong sexual nature and the inclusion of strong images of genital and anal detail (provided for the purpose of sexual arousal) the time of broadcast and location of the channel were not sufficient to justify the broadcast of the material. The material shown was so strongly sexual that it would have exceeded the likely expectation of the vast majority of the audience. Ofcom concluded that this content was clearly not justified by the context and was in breach of generally accepted standards.

This broadcast was also therefore in breach of Rules 2.1 and 2.3 of the Code.

Promotion of the www.bangbabes.tv website address – for all broadcasts

The content of websites is not broadcast material, and therefore not subject to the requirements of the Code. However, any promotional references to websites made on air are broadcast content. Ofcom therefore has the duty and the power to regulate such references under the Communications Act 2003. Ofcom licensed services should in no circumstances promote 'adult' websites which provide unrestricted R18-rated equivalent material if such material can be accessed without appropriate restrictions in place. Ofcom is able to request that references to such websites are removed.

On the day that Ofcom was made aware of the broadcast promotions to the www.bangbabes.tv website, and that it contained R18-rated equivalent material, it immediately spoke to the broadcaster to ask it to remove the website link from all future programming.

Code Rules 2.1 and 2.3 apply to promotional references to websites made on air because they are broadcast content. The issue in this case was whether the website was suitable to be promoted on a licensed television service and so complied with these rules. When accessed – merely by clicking a button to confirm that the user was over 18 – the www.bangbabes.tv website contained clips of R18-rated equivalent material. This included video images of a woman performing oral sex on two men simultaneously. This website did not require prior registration to view and its promotion on television was therefore of serious concern to Ofcom. The promotional references to the www.bangbabes.tv website on air therefore breached generally accepted standards. They were offensive because of the unprotected and explicit sexual material they led to and were not in Ofcom's opinion justified by the context, such as only being broadcast after 21:00 on a service in the 'adult' section of the Sky EPG. Ofcom therefore concluded that the promotional references to the website as broadcast on the three programmes were in breach of Rules 2.1 and 2.3 of the Code.

Ofcom notes the broadcaster's response that it was "disappointing" that Ofcom did not bring this to matter to its attention sooner so that it could have acted to remove the material quicker. As stated above, Ofcom immediately spoke to the broadcaster after becoming aware that it was broadcasting a promotion for its website which contained R18-rated equivalent material. Ofcom reminds all broadcasters that it is

the responsibility of the Licensee to ensure on an ongoing basis that all broadcast output meets the requirements of the Code.

Ofcom has formally notified the Licensee that it is considering these contraventions of the Code for statutory sanction in light of their seriousness and/or repeated nature.

Please see note on page 26 of this Bulletin about Bang Media and Bang Channels.

Bang Babes, Tease Me, 7 November 2009, 23:30: Breach of Rules 1.24, 2.1 and 2.3

Bang Babes, Tease Me, 13 November 2009, 23:00: Breach of Rules 1.24, 2.1 and 2.3

Bang Babes, Tease Me, 24 November 2009, 22:00 - 23:59: Breach of Rules 1.24, 2.1 and 2.3

Bang Babes, Tease Me, 25 November 2009, 00:00 - 05:30: Breach of Rule 1.25

In Breach

Bang Babes – Various broadcasts

Tease Me, 31 October 2009, 00:00-05.30

Tease Me 3, 31 October 2009, 00:00-05.30

Tease Me, 5 November 2009, 00:00-05.30

Tease Me, 15 November 2009, 22:00- 23:59

Tease Me 2, 24 November 2009, 23:24-23:59

Introduction

Bang Babes is adult sex chat programming, freely available without mandatory restricted access on the channels *Tease Me*, *Tease Me 2* and *Tease Me 3* (Sky channel numbers 912, 948 and 959). All the channels are situated in the 'adult' section of the Sky electronic programme guide ("EPG"). The licences for *Tease Me*, *Tease Me 2* and *Tease Me 3* are held by Bang Channels Limited ("Bang Channels" or "the Licensee"). These channels broadcast programmes after the 21:00 watershed based on interactive adult sex chat services: viewers are invited to contact onscreen female presenters via premium rate telephony services ("PRS"). The female presenters dress and behave in a sexually provocative way while encouraging viewers to contact the PRS numbers.

Ofcom received a complaint about inappropriate adult content allegedly shown on *Tease Me*, *Tease Me 2* and *Tease Me 3* at the date and times outlined above. The complainant said that the content transmitted was too sexually explicit to be available without mandatory restricted access. The complainant provided Ofcom with extracts, each lasting a few minutes, of each of the programmes complained about to demonstrate the sort of material being transmitted. After viewing the extracts provided by the complainant Ofcom had concerns about the material allegedly broadcast during the dates and times complained of. It therefore asked Bang Channels to provide recordings of the output broadcast during the channels, dates and times outlined above.

Licence Condition 11

Background

Ofcom first wrote to the Licensee on 30 November 2009 requesting recordings of the five programmes complained about. The request was sent well within the 60 day period after transmission when the Licensee was required to keep recordings of this output. The programmes were:

- Bang Babes, *Tease Me*, 31 October 2009, 00:00-05.30
- Bang Babes, *Tease Me 3*, 31 October 2009, 00:00-05.30
- Bang Babes, *Tease Me*, 5 November 2009, 00:00-05.30
- Bang Babes, *Tease Me*, 15 November 2009, 22:00- 23:59
- Bang Babes, *Tease Me 2*, 24 November 2009, 23:24-23:59

Bang Channels stated on 3 December 2009 that the provision of all this material would be disproportionate, due to the amount of content complained of. In response to this Ofcom sought to assist the Licensee. It therefore wrote to Bang Channels on 9 December 2009 and provided copies of the alleged extracts from the above

broadcasts, as provided by the complainant. The Licensee was asked to confirm that the material supplied by the complainant was transmitted on its licence during the dates and times outlined by the complainant. This correspondence was also sent to Bang Channels within 60 days of the dates of transmission of the programmes. The deadline for providing this information was 18 December 2009.

On the 14 December 2009 the Licensee requested an extension to respond to Ofcom. On 15 December 2009 (again, within 60 days of the dates of transmission) Ofcom agreed an extension to 8 January 2010. Ofcom's correspondence of 15 December 2009 also made clear that if the Licensee could not confirm the broadcast details of the extracts provided by the complainant then full time-coded recordings of all the broadcasts complained of should be provided instead.

In its response of 8 January 2010 the Licensee did not confirm the exact dates and time-codes for the extracts provided by the complainant. It did however provide details of the channels that some of the material was broadcast on¹. Between the 18 and 22 January 2010 the Licensee did provide the following recordings to Ofcom:

- Bang Babes, Tease Me, 31 October 2009, 00:00-00:30
- Bang Babes, Tease Me 3, 30/31 October 2009, 23:20-00:20
- Bang Babes, Tease Me, 5 November 2009, 05:00-05:05
- Bang Babes, Tease Me, 15 November 2009, 22:29-22:35
- Bang Babes, Tease Me 2, 24 November 2009, 22:00- 23:59

Therefore the Licensee provided to Ofcom all but one of the requested broadcasts incomplete or they did not match the time codes requested by Ofcom. Only *Bang Babes, Tease Me 2, 24 November 2009, 22:00- 23:59* was provided in full. Bang Channels explained that it was unable to provide the material in full as it only retains recordings for 60 days.

Condition 11 of Bang Channel's licence states that the Licensee must make and retain a recording of all its programmes for a period of 60 days from broadcast, and at Ofcom's request must produce a recording "forthwith". Ofcom has made clear that recordings "must be of a standard and in a format which allows Ofcom to view the material as broadcast." (See Ofcom's Guidance notes for applicants for Television Licensable Content Services, paragraph 71.)

Ofcom asked the Licensee to provide formal comments in relation to its failure to retain recordings of its output, and its inability to meet Ofcom's request for these recordings "forthwith".

Rules 1.24, 2.1 and 2.3

Ofcom viewed the recordings provided by the Licensee (both complete and incomplete) and noted that some of the content raised possible issues under the Code.

Bang Babes, Tease Me, 15 November 2009, 22:29-22:35

¹ The Licensee did confirm the channel details of Bang Babes, Tease Me, 31 October 2009, 00:00-00:30; Bang Babes, Tease Me 3, 31 October 2009, 00:00-05.30; and Bang Babes, Tease Me, 5 November 2009, 00:00-05.30. However, it could not confirm the date and time of these broadcasts.

This broadcast included a female presenter wearing a skimpy black thong and black stockings. She was topless. The presenter was shown bending over on all fours with her bottom positioned to camera for relatively prolonged periods of time. While doing so she repeatedly pulled her buttocks apart and showed labial and anal detail at close range. She was also shown simulating masturbation in a realistic way by: touching and rubbing her thong against her genital area; spitting on her fingers and rubbing saliva on her genital area; and rubbing her anal area.

Bang Babes, Tease Me 2, 24 November 2009, 23:24-23:59

The broadcast featured two presenters. One was wearing a blue thong and blue fingerless gloves. Her blue top was pulled down to reveal her breasts. The other was wearing a black fishnet see-through top (which she pulled down at various points in the broadcast), black fishnet tights and a red thong. The presenters were shown at various times with their legs wide open to camera, carrying out a number of sexual acts. For example, the presenters: simulated masturbation in a realistic way by repeatedly touching and rubbing each other's thongs on their genital and anal area; apparently licked each other's genital and anal area in a realistic way; mimed the insertion of an object into their anal or vaginal area; spanked each other's buttocks; and sucked and licked each other's breasts.

Promotion of the www.bangbabes.tv website address

In addition, after viewing the content complained of Ofcom noted that during *Bang Babes, Tease Me*, 15 November 2009, 22:29-22:35 and *Bang Babes, Tease Me 2*, 24 November 2009, 23:24-23:59, the website 'www.bangbabes.tv' was promoted. When accessed by Ofcom this website featured images of a strong sexual nature equivalent to BBFC R18-rated material ("R18-rated equivalent material") which could be readily viewed without appropriate protections. Although this R18-rated equivalent material was not broadcast on-air, Ofcom was concerned that it appeared on a website being promoted on Ofcom licensed services freely available without mandatory restricted access from 21.00.

Ofcom asked Bang Channels for its comments on the above broadcasts in respect of Rules 1.24² ('adult-sex' material is restricted to overnight services with mandatory restricted access); 2.1 (generally accepted standards) and 2.3 (material which may cause offence must be justified by context) of the Code. Ofcom sought comments in respect of the strong sexual nature of some of the content; and the promotion of the website featuring unrestricted access to R18-rated equivalent material.

Response

Licence Condition 11

The Licensee said that on 30 November 2009 Ofcom requested recordings of five separate transmissions representing over twenty hours of broadcast footage. It added that it has invested heavily in developing off-air recording technology, which would facilitate the making of recordings. However, it stated that even the most advanced and robust of systems would have huge difficulty downloading over twenty hours of video footage.

² Please note that on 16 December 2009, a revised version of the Code was issued. For programmes broadcast on or after 16 December 2009, Rule 1.18 is relevant.

It stated that while it welcomed Ofcom's alternative option to confirm the broadcast details of the material complained of, as provided by the complainant, on an operational level this modified request made little difference. This is because the footage still had to be downloaded in order to view. It estimated that Ofcom's request cost its compliance team "over eighty man hours or two working weeks".

Bang Channels stated that it is a small broadcaster and the amount of broadcast footage requested, combined with the Christmas holidays, meant that it did not have the time or resources to confirm all the details requested by Ofcom. It said that by the time the compliance team returned from holidays the footage had been deleted from the system, which only retains recordings for 60 days.

It continued that as the complainant provided recordings of the material complained of, this should have been sufficient to proceed with the investigation. It stated that it has "co-operated fully with Ofcom with respect to confirming the details of the recordings as best [it] could" (for example by providing confirmation of the channel in some cases), given the amount of material requested. Therefore it does not consider that Condition 11 of its licence was breached.

Rules 1.24, 2.1 and 2.3

Bang Babes, Tease Me, 15 November 2009, 22:29-22:35

With regard to Rule 1.24, Bang Channels said that it did not accept that the material broadcast was 'adult-sex' material. This content was in line with audience expectations for a channel of this nature post-watershed. It therefore did not consider the material in breach of Rule 1.24.

With regard to Rules 2.1 and 2.3, the Licensee stated that generally accepted standards were applied. It said that most viewers would expect to see content of a similar nature across the 'adult' section of the EPG at this time of night. It continued that the nature and position of the channel provided sufficient contextual justification for the content to be transmitted.

Bang Babes, Tease Me 2, 24 November 2009, 23:24-23:59

With regard to Rule 1.24, Bang Channels said that it did not accept that the material broadcast was 'adult-sex' material and was in line with audience expectations for a channel of this nature post-watershed. It therefore did not consider the material in breach of Rule 1.24.

With reference to Rules 2.1 and 2.3, the Licensee stated that the material was consistent with other programming broadcast in the 'adult' section of the EPG at the time of broadcast. The Licensee has previously stated to Ofcom that an 'infomercial' is broadcast at 21:00 every night before the Bang Babes programming starts, advising viewers that the upcoming programming is adult in nature and provides instructions on how to manually restrict access to the channel if viewers did not wish to see it in future. With regard to this particular broadcast, the Licensee stated in its response that the nature and location of the channel, along with clear warnings and instructions about how to restrict access to the channel, sufficiently informed viewer expectations. Bang Channels continued that the nature and position of the channel provided sufficient contextual justification for the content to be transmitted. Therefore it did not consider the broadcast to be in breach of Rules 2.1 and 2.3 of the Code.

Promotion of the www.bangbabes.tv website address – same two broadcasts

With regard the promotion of the website www.bangbabes.tv for both broadcasts, the broadcaster accepted that the website contained R18-rated equivalent material. It stated that the material in question was advertising a third party website and it was not aware of the kind of material the third party provider would be advertising when they sold them the advertising space. It said that as soon as the material was brought to its attention it removed the material and ordered a complete review of all its websites.

Decision

Licence Condition 11

It is a condition of all broadcast licences that the Licensee adopts acceptable procedures for the retention of, and production of recordings to, Ofcom; that recordings should be 'as broadcast' (i.e. the same quality in terms of both sound and picture as when originally transmitted); and that on request by Ofcom a licensee provides the recordings "forthwith".

In this case, the Licensee failed to provide Ofcom with the time-coded programme recordings we requested "forthwith". In addition, although the Licensee did confirm the channel details of some of the broadcasts complained of, it was unable to confirm either the date or time that the extract material, provided by the complainant, had been broadcast. This was despite repeated requests for the material made by Ofcom within 60 days of the dates of transmission, and Ofcom's agreement to an extension to allow for the Christmas holiday period. Ofcom is particularly concerned that the Licensee did not take the necessary measures to ensure the recordings requested by Ofcom were retained beyond the 60 day period, despite being put on notice by Ofcom on 15 December 2009 that it required recordings of the material.

It is essential that all licensees have procedures in place that ensure all their output is recorded in sufficient quality, retained, and can be retrieved quickly so that all recordings requested by Ofcom can be provided "forthwith." Failure to comply with these licence requirements is always regarded seriously by Ofcom because, without access to a recording of broadcast material complained about, Ofcom cannot investigate any potential breaches of the Code.

Ofcom has therefore found Bang Channels in breach of its licence.

Breach of Licence Condition 11 (Retention and production of recordings)

Rules 1.24, 2.1 and 2.3 of the Code

Ofcom has a duty to ensure that generally accepted standards are applied to the content of radio and television services so as to provide adequate protection from the inclusion of harmful or offensive material. In relation to generally accepted standards, including those in relation to sexual material, Ofcom recognises that what is and is not generally accepted is subject to change over time. When deciding whether or not particular broadcast content is likely to fall within generally accepted standards, it is necessary to assess the character of the content itself and the context in which it is provided.

In relation to the broadcast of material of a sexual nature this normally involves assessing the strength or explicitness of the content and balancing it against the particular editorial or contextual justification for broadcasting the content. Ofcom

seeks to ensure that material of a sexual nature, when broadcast, is editorially justified, appropriately scheduled and where necessary access is restricted to adults.

Broadcasters are allowed to broadcast after the watershed (and without other access restrictions) material which is of a strong sexual nature as long as it is justified by the context. However, this material must not be considered to be adult sex material (i.e. it is not strong sexual images which are broadcast for the primary purpose of sexual arousal or stimulation).

Rule 1.24 of the Code requires 'adult-sex' material to be broadcast only between 22:00 and 05:30, and then only if mandatory restricted access is in place. Through a series of published findings, and published decisions of the Content Sanctions Committee, Ofcom has made clear what constitutes 'adult-sex' material³.

In considering the contents of the programmes broadcast on Tease Me on 15 November 2009 and Tease Me 2 on 24 November 2009 Ofcom asked itself two questions:

- was the content of the programme 'adult-sex' material; and,
- did the broadcaster take appropriate steps to ensure that the content was provided with sufficient contextual justification so as to ensure that it fell within generally accepted standards.

Bang Babes, Tease Me, 15 November 2009, 22:29-22:35

In relation to Rule 1.24, Ofcom examined the content of this broadcast and considered that it was of a very strong sexual nature and on some occasions contained explicit images of genital and anal detail. For example, during the broadcast the presenter was shown apparently performing masturbation on herself by touching and rubbing her thong against her genital area; spitting on her fingers and rubbing saliva on her genital area; and rubbing her anal area. In Ofcom's opinion, a viewer could reasonably have perceived these sexual acts as real. The

³ For example:

- Sanctions decision against Square 1 Management Limited concerning its channel Smile TV, dated 10 July 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/SmileTV.pdf;
- Breach Finding on SportxxxBabes, Ofcom Broadcast Bulletin 115, dated 11 August 2008; http://www.ofcom.org.uk/tv/obb/prog_cb/obb115/;
- Breach Finding on SportxxxBabes, Ofcom Broadcast Bulletin 119, dated 13 October 2008; http://www.ofcom.org.uk/tv/obb/prog_cb/obb119/;
- Sanctions decision against Satellite Entertainment Limited concerning its channel SportxxxBabes, dated 26 August 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf;
- Sanctions decision against Satellite Entertainment Limited concerning its channel SportxxxBabes, dated 26 August 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf;
- Sanction decision against Playboy TV UK/Benelux Limited concerning its channel Playboy One, dated 2 April 2009, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/playboytv.pdf;
- Breach Finding on Playboy One, Broadcast Bulletin 134, http://www.ofcom.org.uk/tv/obb/prog_cb/obb134/; Breach Finding on Live 960, Broadcast Bulletin 149, http://www.ofcom.org.uk/tv/obb/prog_cb/obb149/;
- Breach Finding on Bang Babes, Broadcast Bulletin 151, http://www.ofcom.org.uk/tv/obb/prog_cb/obb151/; and
- Breach Finding on Bang Babes, Broadcast Bulletin 152, http://www.ofcom.org.uk/tv/obb/prog_cb/obb152/Issue152.pdf

presenter was also shown pulling her buttocks apart to show labial and anal detail at close range. Ofcom took account of the fact that these images were both repeated and shown for relatively prolonged periods of time. In Ofcom's view, the primary purpose of broadcasting this material was clearly sexual arousal. Having assessed the programme's content and purpose, Ofcom considered that the material broadcast constituted 'adult-sex' material. Its broadcast, without mandatory restricted access, was therefore in breach of Rule 1.24.

Ofcom is concerned that the Licensee considers material, such as genital and anal detail and simulated masturbation in a sexual context such as this, to be acceptable for broadcast without mandatory restricted access.

Ofcom then went on to consider whether the broadcast was also in breach of Rules 2.1 and 2.3 of the Code. In light of Ofcom's view that this material constituted 'adult-sex' material and was therefore unsuitable for broadcast without mandatory restricted access, the broadcast was clearly capable of causing considerable offence. Ofcom therefore examined the extent to which there were any particular editorial or contextual factors that might have limited the potential for offence. Ofcom noted that the programme was broadcast some time after the watershed, that viewers tend to expect stronger sexual material to be shown later at night and that it the Licensee stated that it was preceded at around 21:00 by some information giving advice to viewers. Ofcom also took account of the fact that the channel Tease Me was positioned in the 'adult' section of the EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the EPG than would be expected to be included on other channels.

However, in this case, given the relatively prolonged and frequent scenes of a very strong sexual nature and the inclusion of graphic images of genital and anal detail (provided for the purpose of sexual arousal), the time of broadcast and location of the channel were not sufficient to justify the broadcast of the material. The material shown was of a nature that it would have exceeded the likely expectation of the vast majority of the audience. Ofcom concluded that this content was clearly not justified by the context and was in breach of generally accepted standards.

This broadcast was also therefore in breach of Rules 2.1 and 2.3 of the Code.

Bang Babes, Tease Me 2, 24 November 2009, 23:24-23:59

In relation to Rule 1.24, Ofcom examined the content of this broadcast and considered that it was of a very strong sexual nature. Ofcom was particularly concerned that the two presenters were shown simulating masturbation in a realistic way by touching and rubbing each other's thongs on their genital and anal area. It was also concerned by the presenters apparently licking each other's genital and anal area in a realistic way. In Ofcom's opinion, a viewer could reasonably have concluded that some of these sexual acts were real. The presenters were also shown miming the insertion of an object into their anus or vagina, spanking each other's buttocks and licking each other's breasts. Ofcom took account of the fact that these sequences were repeated throughout the broadcast. In Ofcom's view, the primary purpose of broadcasting this material was clearly sexual arousal. Having assessed the programme's content and purpose, Ofcom considered that the material broadcast constituted 'adult-sex' material. Its broadcast, without mandatory restricted access, was therefore in breach of Rule 1.24.

Ofcom is concerned that the Licensee considers material, such as presenters apparently simulating masturbation in a sexual context such as this, to be acceptable for broadcast without mandatory restricted access.

Ofcom then went on to consider whether this broadcast was also in breach of Rules 2.1 and 2.3 of the Code. In light of Ofcom's view that this material constituted 'adult-sex' material and was therefore unsuitable for broadcast without mandatory restricted access, the broadcasts were clearly capable of causing offence. Ofcom therefore examined the extent to which there were any particular editorial or contextual factors that might have limited the potential for offence. Ofcom noted that the programme was broadcast a considerable time after the watershed, that viewers tend to expect stronger sexual material to be shown later at night, and that it was preceded at around 21:00 by some information giving advice to viewers. Ofcom also took account of the fact that the channel Tease Me 2 was positioned in the 'adult' section of the EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the EPG than would be expected to be included on other channels.

However, in this case, given the frequent images of a strong sexual nature (provided for the purpose of sexual arousal), the time of broadcast, location of the channel and broadcast of a warning were not sufficient to justify the broadcast of the material. The material shown was of a nature that it would have exceeded the likely expectation of the vast majority of the audience. Ofcom concluded that this content was clearly not justified by the context and was in breach of generally accepted standards.

This broadcast was also therefore in breach of Rules 2.1 and 2.3 of the Code.

Promotion of the www.bangbabes.tv website address – same two broadcasts

The content of websites is not broadcast material, and therefore not subject to the requirements of the Code. However, any promotional references to websites made on air are broadcast content. Ofcom therefore has the duty and the power to regulate such references under the Communications Act 2003. Ofcom licensed services should in no circumstances promote 'adult' websites which provide unrestricted R18-rated equivalent material if such material can be accessed without appropriate restrictions in place. Ofcom is able to request that references to such websites are removed. On the day that Ofcom was made aware of the broadcast promotions to the www.bangbabes.tv website, and that it contained R18-rated equivalent material, it immediately spoke to the broadcaster to ask it to remove the website link from all future programming.

Code Rules 2.1 and 2.3 apply to promotional references to websites made on air because they are broadcast content. The issue in this case was whether the website was suitable to be promoted on a licensed television service and so complied with these rules. When accessed – merely by clicking a button to confirm that the user was over 18 – the www.bangbabes.tv website contained clips of R18-rated equivalent material. This included video images of a woman performing oral sex on two men simultaneously. This website did not require prior registration to view and its promotion on television was therefore of serious concern to Ofcom. The promotional references to the www.bangbabes.tv website on air therefore breached generally accepted standards. They were offensive because of the unprotected and explicit sexual material they led to and were not in Ofcom's opinion justified by the context, such as only being broadcast after 21:00 on a service in the 'adult' section of the Sky

EPG. Ofcom therefore concluded that the promotional references to the website as broadcast on the three programmes were in breach of Rules 2.1 and 2.3 of the Code.

Ofcom has notified the Licensee that it is considering these contraventions of the Code, and of condition 11 of its licences, for statutory sanction in light of their seriousness and/or repeated nature.

Please see note on page 26 of this Bulletin about Bang Media and Bang Channels.

Breach of Licence Condition 11 (Retention and production of recordings)

Bang Babes, Tease Me, 15 November 2009, 22:29-22:35: Breach of Rules 1.24, 2.1 and 2.3

Bang Babes, Tease Me 2, 24 November 2009, 23:24-23:59: Breach of Rules 1.24, 2.1 and 2.3

Note: Bang Channels Limited and Bang Media (London) Limited

On 8 February 2010 in Broadcast Bulletin 151 Ofcom published a number of breaches of the Code against Bang Channels Limited (“Bang Channels”): see http://www.ofcom.org.uk/tv/obb/prog_cb/obb151/Issue151.pdf,

These breaches concerned the Tease Me adult sex chat service, for which Bang Channels holds the licence. Ofcom explained in Broadcast Bulletin 151 that as a result of these breaches, it was notifying the licensee that it was considering the imposition of statutory sanctions.

On 22 February 2010 in Broadcast Bulletin 152, Ofcom published further breaches of the Code as regards services for which Bang Channels holds the licences, Tease Me and Tease Me 3. Ofcom considers these breaches to be both serious and repeated.

Broadcast Bulletin 152 also contained breach findings recorded against another Licensee, Bang Media (London) Limited (“Bang Media”). These decisions relate to Bang Media’s channel on Freeview, Tease Me TV.

In the current Broadcast Bulletin (153) Ofcom has published further breaches of the Code as regards services for which Bang Channels holds the licences, Tease Me, Tease Me 2, Tease 3. Ofcom considers these breaches to be both serious and repeated.

As is made clear in Broadcast Bulletins 151, 152 and 153 these breaches are serious and/or repeated and are therefore being considered by Ofcom for statutory sanction.

Bang Media and Bang Channels are controlled by the same person and all editorial compliance decisions regarding both Bang Media and Bang Channels are taken by one compliance team. For these reasons Ofcom will consider for sanction together all serious and/or repeated Code or licence breaches for which Bang Media and Bang Channels are responsible.

In Breach

Asar Azan

ATN Bangla, 27 August 2009, 17:47

Iftar Clock; Magrib Asan

ATN Bangla, 27 August 2009, 19:59

Introduction

ATN Bangla provides a general entertainment service from the Indian sub-continent for Asian communities in the UK and other countries across Europe. It broadcasts predominantly in Tamil, Bengali, English, Hindi and Punjabi.

As part of a routine monitoring exercise, Ofcom noted two issues in ATN Bangla's output about which it contacted the broadcaster.

Asar Azan and Magrib Asan

These two short programmes were calls to prayer. Ofcom noted that each programme was preceded by material that appeared to be a sponsorship credit. The credit informed viewers that the following programme was sponsored by a company called Simple Call.

Throughout both programmes a spatially separated credit appeared on screen in a split screen caption, which stated: "*brought to you by: Simple Call [logo].*"

Each of the two programmes were followed by:

- an advertisement for Simple Call;
- an ATN Bangla (channel) ident; and
- a commercial break.

ATN Bangla informed us that none of the broadcast references to Simple Call before or during the broadcasts were paid for and it did not therefore consider them advertising or sponsorship.

Iftar Clock

This 30 second programme was a countdown to the breaking of the fast during Ramadan. A commercial break preceded *Iftar Clock*, with the final advertisement in the break being for Icon College.

Throughout the programme, a spatially separated credit appeared on screen, which stated: "*sponsored by Icon College [logo].*"

ATN Bangla informed us that the broadcast reference to Icon College in the broadcast was not paid for and was not therefore sponsorship.

In each of the above cases we sought the broadcaster's comments, with regard to the following rules:

- 10.2 – Broadcasters must ensure that the advertising and programme elements of a service are kept separate;
- 10.3 – Products and services must not be promoted in programmes...; and

- 10.4 – No undue prominence may be given in any programme to a product or service.

Response

Asar Azan and Magrib Asan

The broadcaster said that it considered neither *Asar Azan* or *Magrib Asan* to be programmes as they were calls to prayer. It added that references to Simple Call were made in return for its charitable donation to one of the appeals broadcast during Ramadan by ATN Bangla. The broadcaster provided a copy of its agreement with Simple Call.

ATN Bangla added that, not only were broadcast references to the company “merely intended as an acknowledgement of Simple Call’s donation to charity”, but “any reference to Simple Call would have been seen by viewers as an acknowledgement of a donation to charity due to it being referred to in the [call to prayer] and also because it was not forming part of the advertisement being run on the television station.”

Iftar Clock

ATN Bangla said that references to Icon College were made in the broadcast in return for its charitable donation to one of the appeals it broadcast during Ramadan. It added that: “Given that the Iftar Clock [was] a countdown to the breaking of fast during Ramadan, it would have been clear to the viewer that [it] was not an advertisement given the nature of the broadcast.” ATN Bangla therefore believed it had been adequately separated from the advertisements that had preceded it.

The broadcaster added that it “gave reference to Icon College as it had made donations to charity and it was felt ... that the viewer would have drawn this conclusion by its inclusion in an item which was so closely related to the Ramadan celebrations and therefore a period of charitable giving.” ATN Bangla therefore considered that reference to Icon College was editorially justified and products/services were not promoted.

Decision

Rule 10.2 requires that programmes and advertisements are kept separate. Rule 10.3 maintains this distinction by prohibiting the promotion of products and services within programmes. While there is no prohibition on the appearance of, or reference to, products and services within programmes, Rule 10.4 requires that they are not given undue prominence in such circumstances. References to products and services in programmes must therefore have editorial justification and, generally, they should be brief.

Asar Azan and Magrib Asan

European legislation states that content on television is either programming (editorial) or advertising. The Audio Visual Media Services (“AVMS”) Directive defines both of these¹. Given that the broadcaster had confirmed that the calls to prayer were not broadcast in return for payment, as advertising, they were therefore programmes (editorial).

While ATN Bangla confirmed that the programmes were not sponsored, each was preceded by what appeared to Ofcom to be a sponsorship credit, informing viewers

¹ See Article 1 of the AVMS Directive.

that it was sponsored by Simple Call. In addition, throughout each programme viewers saw on screen, “*brought to you by* (which is common broadcast terminology meaning, ‘sponsored by’) *Simple Call*.” Ofcom notes the broadcaster’s opinion that viewers would consider such references to Simple Call, in each case, to be an acknowledgement of a donation to charity, given also that they were not conveyed during the Simple Call advertisements that followed. Whatever the validity of this, Ofcom considers that viewers would also recognise these as sponsorship messages broadcast before and during each programme as an indication that the programmes were sponsored.

A broadcast sponsor meets some or all of the costs of a programme “with a view to promoting its own or another’s name, trademark, image, activities, services, products or any other direct or indirect interest.”² Ofcom notes that ATN Bangla confirmed that neither programme in this instance was sponsored.

However, Ofcom considered that the sponsorship messages broadcast before and during the programmes were likely to have indicated to viewers a commercial arrangement between the broadcaster and Simple Call. Reference to Simple Call in a screened ‘sponsorship’ message throughout each broadcast therefore promoted Simple Call in programmes, in breach of Rule 10.3 of the Code.

Ofcom notes that ATN Bangla’s references to Simple Call in the calls to prayer were intended to acknowledge the company’s donation to a broadcast appeal. Broadcasters may choose to acknowledge briefly by name an organisations’ donations to a broadcast appeal, without necessarily raising Code issues by doing so. However, any such acknowledgement would generally be editorially justified only when made in passing and with reference to a specific appeal. The screened references to Simple Call were in unrelated programmes, *Asar Azan* and *Magrib Asan*, and were prolonged and made no reference to any broadcast appeal. Ofcom considers these references were not editorially justified and were in breach of Rule 10.4 of the Code.

In relation to the advertisement for Simple Call that followed each programme, Ofcom noted in each case, the programme ended, followed immediately by the advertisement for Simple Call, then an ATN Bangla channel ident, followed by a commercial break. The use of the ATN Bangla channel ident separated the Simple Call advertisement from the subsequent advertisements in the commercial break.

Ofcom noted that the Simple Call advertisement that followed each programme:

- was not separated from the programme, for instance by the use of a channel ident;
- promoted the same brand as the apparent sponsor of that programme;
- promoted the same brand that had been featured on screen throughout the programme; and
- was clearly separated (by a channel ident) from the commercial break that followed it.

While the Simple Call advertisements had been separated from advertisements that comprised commercial breaks, they were not kept separate from the programmes they followed, in breach of Rule 10.2 of the Code.

² See ‘**Meaning of “sponsored programme”...**’ in **Section 9 of the Code**, at: <http://www.ofcom.org.uk/tv/ifi/codes/bcode/sponsorship/>

Iftar Clock

In relation to the advertisement for Icon College that immediately preceded the *Iftar Clock* programme, Ofcom noted that the advertisement:

- was not separated from the programme that followed, for instance by the use of a channel ident;
- promoted the same brand (Icon College) as the apparent sponsor of the following programme; and
- promoted the same brand that had been featured on screen throughout the programme.

The Icon College advertisement was not kept separate from the programme that followed, in breach of Rule 10.2 of the Code.

In addition, as in the case above, Ofcom considered that the ‘sponsorship’ message (i.e. “*sponsored by Icon College*”) broadcast throughout the programme was likely to have indicated to viewers a commercial arrangement between the broadcaster and Icon College (further to that concerning the broadcast of advertisements for Icon College). Reference to Icon College in a screened ‘sponsorship’ message throughout the broadcast therefore promoted Simple Call in programmes, in breach of Rule 10.3 of the Code.

Ofcom notes that ATN Bangla’s reference to Icon College in the countdown to the breaking of fast (*Iftar Clock*) was intended to acknowledge the establishment’s philanthropy with regard to a broadcast appeal. However, the screened reference to Icon College was broadcast throughout the programme and made no reference to any broadcast appeal. As in the case of *Asar Azan* and *Magrib Asan*, discussed above, Ofcom considers this reference to Icon College was not editorially justified and was in breach of Rule 10.4 of the Code.

Breaches of Rules 10.2, 10.3 and 10.4

In Breach

Appeal for Loughborough Mosque Extension Project

Channel S, 27 August 2009, 17:00

Introduction

Channel S provides a general entertainment service for Asian communities from the Indian sub-continent in the UK and other countries across Europe. It broadcasts in Bengali, English, Hindi and Urdu, and its programmes include locally produced material and those from the Indian sub-continent.

As part of a routine monitoring exercise, Ofcom noted that, throughout a 50 minute appeal broadcast on Channel S, the following two messages were scrolled continuously across the screen, in separate banners:

- *“...Please donate generously to Loughborough Mosques last appeal ... Sponsored by Islamic Bank of Britain. Barrister Rizwan Hussain specially requests all organisations past and present to make a contribution to his childhood mosque tonight...”*; and
- *“...Supported by: Euro Asia Groceries, Loughborough, [contact telephone number]; Miah & Co. Money Transfer and Travel, Loughborough, [contact telephone number]; ... [plus four other businesses]”*.

Channel S stated that the messages were not programme sponsorship credits, advertising or paid-for.

We sought the broadcaster’s comments with regard to the following Code rules:

- 10.3 – Products and services must not be promoted in programmes; and
- 10.4 – No undue prominence may be given in any programme to a product or service.

Response

Channel S said that Islamic Bank of Britain was a sponsor of the Loughborough Mosque extension project itself, not the editorial coverage of the appeal. It believed, “from this and previous publications that the public were well aware of Islamic Bank of Britain’s involvement in the charitable appeal” and added that Barrister Rizwan Hussain and the other six businesses in question were also supporters of the Loughborough Mosque project.

The broadcaster said it “did not feel that undue prominence was given to the parties ... as they were clearly involved in the fundraising aspect which justifiably included [them] as part of the programming relating to the charity”, adding that it “felt ... the public would have understood that the sponsorships were relating to the charitable appeals” and “there would be difficulty in drawing any other contextual conclusion from the broadcasts.”

Decision

Broadcasters may choose to transmit charity appeals free of charge, and generally,

in such circumstances, they may acknowledge briefly by name individuals' or organisations' donations to a broadcast appeal, and/or support for the relevant cause (where editorially justified), without raising Code issues by doing so.

However, broadcasters should note that the provision of such brief acknowledgements should not be a condition of making a donation, and any acknowledgements remain subject to relevant Code rules – in particular, Rules 10.3 and 10.4.

In this case, Channel S' acknowledgements to businesses (and a barrister) who supported the Loughborough Mosque extension project, were repeated throughout a 50 minute broadcast. They were not therefore brief.

Ofcom notes that it is not uncommon for the sponsor or supporter of an event also to sponsor its broadcast coverage. In this case, the broadcaster chose to broadcast the message, "*Sponsored by Islamic Bank of Britain.*" While viewers local to Loughborough Mosque may have been aware of Islamic Bank of Britain's involvement in its extension project, Ofcom considers that, generally, viewers were likely to consider the message as a broadcast sponsorship credit referring to broadcast coverage of the appeal.

A broadcast sponsor meets some or all of the costs of a programme "with a view to promoting its own or another's name, trademark, image, activities, services, products or any other direct or indirect interest."¹ Ofcom notes that Channel S confirmed that the appeal programme was not sponsored. However, it is Ofcom's opinion, for the reasons described above, that viewers would have been likely to consider the broadcast as a sponsored programme and, in our view the Bank was therefore repeatedly promoted throughout, in breach of Rule 10.3 of the Code.

In addition, there appeared to be no editorial justification for screening the contact details of six businesses that were acknowledged on screen as supporting the Loughborough Mosque extension project. In Ofcom's view, this promoted the businesses in the appeal programme, in breach of Rule 10.3 of the Code.

Ofcom considers that by including references to the six businesses and the Islamic Bank of Britain in this manner (i.e. in banners that appeared continuously throughout the 50 minute broadcast), they were also given undue prominence, in breach of Rule 10.4 of the Code.

Breaches of Rules 10.3 and 10.4

¹ See 'Meaning of "sponsored programme"...' in Section 9 of the Code, at: <http://www.ofcom.org.uk/tv/ifi/codes/bcode/sponsorship/>

In Breach

Saturday Kitchen Live

BBC1, 10:00, 5 December 2009

Introduction

Saturday Kitchen Live is a weekly cookery programme. Most editions feature a segment known as 'The Omelette Challenge' where two guest chefs compete to make a three egg omelette in the quickest time possible. When he realised that his omelette was sticking to the frying pan, chef Tom Kime said "*fucking hell*" under his breath.

Ofcom received one complaint from a viewer who considered this language was inappropriate given the programme's weekend morning scheduling. It therefore asked the BBC for its comments under Rule 1.14 of the Code (the most offensive language should not be broadcast before the watershed).

Response

The BBC said that prior to broadcast, all contributors are given very clear instructions about appropriate behaviour given the live nature of the show. These are repeated just before going to air and often during the programme when archive footage is shown.

The BBC explained that, owing to its indistinct nature, Mr Kime's remark went undetected by the production team and presenter, James Martin, and consequently no apology was made. It was not until after the programme, when another guest was asked about the incident, that the BBC became aware of the matter. The production team immediately contacted staff at BBC iPlayer and requested the programme be withheld until an edited version was available.

Following the incident, the BBC decided that Mr Kime would not be returning to the programme and apologised to the complainants who had contacted it to express their concern.

Decision

Ofcom research indicates that the word "fuck" and its derivatives are an example of the most offensive language. Rule 1.14 states that the most offensive language should not be broadcast before the watershed.

Ofcom noted that this was a live show and the production team acted responsibly by giving repeated reminders about acceptable behaviour to its participants. In Bulletin 138, however, Ofcom resolved a similar incident in another edition of the *Saturday Kitchen* series¹. As a result of the fact that this current example of the use of the most offensive language was not noted during the live broadcast, Ofcom has decided to record a breach of Rule 1.14 on this occasion.

Breach of Rule 1.14

¹ 20 July 2009: http://www.ofcom.org.uk/tv/obb/prog_cb/obb138/Issue138.pdf

In Breach

Bang Babes

Friendly TV, 14 October 2009, 23:45

Introduction

Bang Babes is programming based on interactive adult-sex chat services: viewers are invited to contact on-screen female presenters via premium rate services (“PRS”). This programme was broadcast free-to-air and unencrypted.

A viewer complained that the programme contained offensive and explicit adult content.

Ofcom sought a recording of the programme from Springdoo Media Ltd (“Springdoo”) which holds the licence for Friendly TV, and is responsible for compliance of the channel.

Response

Springdoo said it was unable to provide a recording of the programme. It forwarded comments from Big River, the company it had contracted to make studio recordings for compliance purposes. This explained that due to a hardware error, while files had been recorded for the period complained of, it was not possible to create video clips from the data.

Big River explained the problem had been rectified as the entire channel has since been moved to a new platform with a total replacement of every component part, and is no longer using the same hardware or software.

Decision

It is a condition of each Television Licensable Content Service licence that recordings of all output are retained for 60 days after transmission and that Ofcom is provided “forthwith” with any material on request. The failure by Springdoo to supply the recording in this instance is a serious and significant breach of Condition 11 (Retention and production of recordings) of its licence to broadcast. This breach will be held on record.

Breach of Licence Condition 11

Please see the Notice of Sanction concerning Friendly TV on page 5 of this Bulletin. In considering that sanctions case, the Content Sanctions Committee took account of this breach of Condition 11 by Springdoo.

In Breach

Fast TV

Fast TV, 12 November 2009, 14:35 & 15 November 2009, 20:00

Introduction

Fast TV provides a general entertainment television service broadcast in Urdu and English.

Two viewers contacted Ofcom about the content of scrolled promotional messages during programmes on 12 and 15 November 2009. The complainants were respectively concerned about promotions advertising commercial services during unrelated programming, and attempting to exploit viewers to make donations to the channel.

On 17 November 2009 Ofcom sought a recording of the programmes complained of from Harmony TV, which is the licence holder for Fast TV.

Response

On 21 November 2009 Harmony TV requested an extension to provide the recordings, due to the theft of recording equipment from their offices on 14 November 2009. Ofcom granted an extension for these to be provided no later than 8 December 2009.

Harmony TV failed to provide the recordings. On 9 December 2009 Ofcom wrote to Harmony TV to advise the recordings were outstanding, and that in addition to still requiring this material, it was considering whether to find Harmony TV in breach of Condition 11 of its licence for failure to meet this deadline. Ofcom requested any formal comments Harmony TV wished to provide by 23 December 2009.

Harmony TV did not provide comments.

Decision

It is a condition of each Television Licensable Content Service licence that recordings of all output are retained for 60 days after transmission and that Ofcom is provided “forthwith” with any material on request. The failure by Harmony TV to supply the recording within the agreed deadline in this instance is a serious and significant breach of Condition 11 (Retention and production of recordings) of its licence to broadcast.

In Bulletin 141, Ofcom registered a breach of Licence Condition 11 against this service (named as “AT” at that time). Ofcom is concerned that this is the second occasion on which Harmony TV has failed to provide recordings. It should be noted that Ofcom has recently fined a broadcaster for failure to provide recordings (see http://www.ofcom.org.uk/tv/obb/ocsc_adjud/springdoo.pdf). Ofcom may consider further regulatory action (which could include the imposition of a financial penalty) if this problem recurs.

This breach will be held on record.

Breach of Licence Condition 11 (Retention and production of recordings)

Resolved

Sponsorship of *Stabbed: The Truth About Knife Crime*

Bravo, 12 January 2010, 21:00

Introduction

From 11 to 18 January 2010, a strand of programmes on Bravo called “Thrilling Entertainment” was sponsored by a forthcoming feature film *Ninja Assassin*. The film, rated ‘18’ by the British Board of Film Classification, chronicles a martial artist’s bloody quest for revenge. This ten second sponsor credit comprised brief clips of some of the film’s fight sequences. The sponsored programme in this case was *Stabbed: The Truth About Knife Crime*, a documentary about the prevalence and effects of knife attacks.

Ofcom received a complaint from a viewer who said that the film’s association with knife violence made it an insensitive and inappropriate sponsor for a documentary addressing this subject.

Ofcom asked the broadcaster for its comments under Rule 9.3 of the Code and Rule 4.1.1 of the Broadcast Committee of Advertising Practice (“BCAP”) Rules on the Scheduling of Television Advertising.

Rule 9.3 of the Code states that “Sponsorship on radio and television must comply with both the advertising content and scheduling rules that apply to that medium.”

Rule 4.1.1 of the BCAP Rules on the Scheduling of Television Advertising states that: “BCAP expects licensees to exercise responsible judgement on the scheduling of advertising and in particular to operate internal systems capable of identifying in advance, and avoiding, inappropriate juxtapositions between advertising material and programmes, particularly those which could cause distress or offence to viewers.”

Response

Virgin Media Television, the owner of Bravo, explained that the sponsor arrangement was originally due to run between 1 and 9 January 2010 to coincide with the cinematic release of the *Ninja Assassin*. However, the release of the film was delayed until 22 January 2010 and subsequently, the dates of the sponsorship deal were moved to coincide with this.

The broadcaster said that when the deal was first approved, it was satisfied that *Ninja Assassin* was a suitable sponsor for the programmes scheduled on the original dates. Unfortunately, further checks to ensure its suitability for programmes on the revised dates were not performed and so the inappropriateness of the film being the sponsor of the documentary *Stabbed: The Truth About Knife Crime* was missed.

Virgin Media Television said it had itself received two complaints about the suitability of the sponsor credit the following morning. Upon being made aware of the error, it conducted an immediate review of programmes being sponsored by *Ninja Assassin*.

The broadcaster apologised unreservedly for what it considered to be a serious scheduling error. To ensure this did not happen again, it reminded its compliance staff of the importance of performing extra checks if late changes are made.

However, it stressed that this was isolated incident resulting from human error rather than a fundamental flaw in its compliance processes.

Decision

The content of the credit itself did not raise any issues under the Code. However, Ofcom considered that, given the prevalence of knife-related violence in *Ninja Assassin*, the themes reflected in the credit were not suitable when juxtaposed with a programme that addressed such a sensitive and potentially upsetting subject as knife crime. Nevertheless, we accepted that owing to an unexpected sequence of events, this situation arose as a result of a one-off error.

Ofcom also recognised the swift action taken by the broadcaster upon receipt of its complaints and the reminders it issued to its staff to avoid a repeat incident. In the circumstances, Ofcom therefore considered the matter resolved.

Resolved

Other Cases

In Breach

Club Asia (London) Limited

17 August 2009 to 22 October 2009 (inclusive)

Introduction

Ofcom has a general statutory duty to ensure “a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests.” For local commercial radio we also have a specific duty to secure a range and diversity of services and to ensure that each station maintains a specific character. One way Ofcom attempts to secure these benefits to listeners is to require our radio licensees to broadcast in accordance with their published Format. Each station’s Format includes a description of the output that the licensee must provide, based on the promises made in its original application to win the licence. Formats may be varied over time, but only with the approval of Ofcom.

This finding concerns a licence that was held by Club Asia (London) Ltd (“Club Asia”) and later transferred to Buzz Asia on 23 October 2009. Between 2002 and 2009 Club Asia held a local AM commercial radio licence for London, and provided a radio station for young Asian listeners in the capital. The Format for this licence required Club Asia to deliver:

“A music-led, full service for London Asians primarily targeting those aged 15 to 34 with a mix of Asian music and other more mainstream music where appropriate.”

The Format also required Club Asia to broadcast local news bulletins at least each hour during “peaktime”¹

On 17 August 2009 Club Asia entered into administration. Following this the station ceased to broadcast its regular output, replacing it instead with continuous music. In light of the station’s decision to replace its regular programming with continuous music (with no speech content or local news), Ofcom wrote to Club Asia to ask how it was complying with two conditions in its licence relating to Format delivery.

The first is condition 2(1) contained in Part 2 of the Schedule to its licence, which states that:

“The Licensee shall provide the Licensed Service specified in the Annex for the licence period and shall secure that the Licensed Service serves so much of the licensed area as is for the time being reasonably practicable.” (Section 106(2) of the Broadcasting Act 1990).”

The second is licence condition 2(4), contained in Part 2 of the Schedule to the licence, which states that:

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period.” (Section 106(1) of the Broadcasting Act 1990).”

¹ “peaktime” is defined as weekday breakfast and afternoon drivetime, and weekend late breakfast.

Response

The administrator of Club Asia (acting on Club Asia's behalf) confirmed that the company was "currently operating a reduced service" and that therefore the station was, on a temporary basis, breaching its licence. The administrator also advised that it planned to sell Club Asia's broadcast licence to a new company called Buzz Asia Ltd ("Buzz Asia"), owned by Litt Corporation Ltd, which was keen to re-launch the station and return it to Format compliance as soon as practicable.

Ofcom can only agree to transfer a local radio licence from one party to another if it is satisfied that the potential new licensee would be in a position to comply with all of the conditions of the licence, including the Format, from the date the licence is transferred until it expires. In order to satisfy this criterion Ofcom requested from the administrator of Club Asia and Buzz Asia:

- a specific date by which the station would return to compliance with its Format obligations (i.e. broadcast speech content and local news, as well as appropriate music); and
- other information that we require in order to make decisions on a licence transfer, such as evidence of a company's ability to maintain its service.

Having received further representations, including a timetable for the resumption of broadcasting in full compliance with its published Format, Ofcom decided to consent to the transfer of the licence to Buzz Asia with effect from 23 October 2009, on the understanding that the service would re-launch (under the name of "Buzz Asia") at 12.00 noon on that date in accordance with the station's published Format and other licence conditions.

Monitoring carried out by Ofcom confirmed that Buzz Asia was compliant with the requirements set out in its Format².

Decision

By broadcasting a reduced service of continuous music from 17 August 2009, Club Asia clearly breached two conditions in its licence requiring it to comply with the requirements of its Format: licence conditions 2(1) and 2(4) contained in Part 2 of the Schedule to its licence. Ofcom has therefore formally recorded this breach against Club Asia.

However, because Club Asia is now in liquidation (and no longer holds the licence), Ofcom believes it is not appropriate in this case to consider further regulatory action (such as a sanction) against Club Asia in respect of the relevant breaches (although they may be taken into account in any future regulatory matters concerning the company and those associated with it).

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the London commercial radio licence AL175 by Club Asia (London) Ltd.

² The full Content Sampling Report for Buzz Asia can be found at:
<http://www.ofcom.org.uk/radio/ifi/contentssampling/>

Fairness and Privacy Cases

Not Upheld

Complaint by Ms Emma Makey

Dispatches: MPs, Planes and Gravy Trains, Channel 4, 28 September 2009

Summary: Ofcom has not upheld this complaint of unwarranted infringement of privacy made by Ms Makey.

In a programme that investigated the cost of travel expenses of parliamentarians to the UK taxpayer, Ms Makey's work contact details were incidentally disclosed in a document included in the programme that advertised notices for parliamentary delegates to take part in various fact finding trips abroad (the "All Party Whip"). Ms Makey complained that disclosure of her work contact details was superfluous to the argument being made in the programme and that her privacy was infringed by disclosure of these details.

In summary Ofcom found that the information disclosed, i.e. Ms Makey's work contact details, were already in the public domain and hence not private and that nothing of a personal or sensitive nature was revealed in the programme. Ofcom, therefore, considered that Ms Makey had no legitimate expectation of privacy with regard to the incidental broadcast of those details.

Introduction

On 28 September 2009, Channel 4 broadcast an episode of its investigative series *Dispatches*. This particular programme, entitled *MPs, Planes and Gravy Trains*, focused on travel expenses claimed by MPs for trips to foreign countries, in light of revelations about their expense claims in general.

As part of its investigation, the programme revealed that notices published in the All Party Whip, the weekly newsletter circulated to all MPs, advertised for interested MPs to form part of fact finding delegations to various countries around the world. One such notice in the July edition asked MPs to make contact by email or telephone should they be interested in forming part of a delegation to Senegal. The contact details published in the newsletter were those of Ms Emma Makey, an Assistant Secretary of the Inter-Parliamentary Union ("IPU")¹⁶, whose email address at the IPU and telephone extension number were broadcast as part of images in the programme of the All Party Whip.

Ms Makey complained that her privacy was unwarrantably infringed by the broadcast of the programme.

The Complaint

In summary, Ms Makey complained that her privacy was unwarrantably infringed in the broadcast of the programme in that her personal work contact details were broadcast, including her email address and work telephone extension number.

¹⁶ The IPU is an organisation of parliamentarians from around the world that aims to establish co-operation between member parliaments. Membership of the British group comprises members of all parties from the House of Commons and Lords.

Ms Makey said that the All Party Whip was a Parliamentary publication intended for internal use only and that the broadcast of her details was superfluous to the argument being made in the programme and therefore not in the public interest. Even if broadcast of the newsletter had been in the public interest, she said that she should have received prior warning of its inclusion in the programme or her details should have been obscured.

By way of background, Ms Makey said that Parliamentary staff emails are not divulged to the public and that only a central email address is available for public enquiries. Had she received prior warning that her details were to be broadcast, she would not have left her personal mobile number on her out of office message.

Channel 4's statement

By way of background, Channel 4 said that the IPU website confirmed that it was funded by the Houses of Parliament and previously the Treasury. Channel 4 said that, according to publicly available sources, in 2007/08 this funding figure was over £1 million. Channel 4 therefore argued that the expenditure incurred and the activities of the IPU were a matter of public interest.

In response to the complaint that Ms Makey's privacy was unwarrantably infringed in the broadcast of the programme in that her personal work contact details were revealed, Channel 4 said the telephone extension number broadcast in the programme was a publicly available switchboard number for a publicly funded organisation and appeared on the contact section of the main IPU secretariat website. Channel 4 argued that broadcast of that number could not therefore be an infringement of privacy.

With regard to the broadcast of Ms Makey's work email address, Channel 4 said that it was an email address used by Ms Makey for her duties for the IPU, a publicly funded organisation, and was not a private email account address. Channel 4 said the email address was available on a website freely available not only in this country but across the world in connection with Ms Makey's duties.

With regard to broadcast of the All Party Whip which included Ms Makey's work contact details, Channel 4 said that the publication is available widely to those who work in the Houses of Parliament and was referred to on numerous occasions in Hansard and by numerous organisations that interact with parliament and parliamentarians. Channel 4 also said that the publication is used as a conduit for communication by parliamentary groups as they carry out work funded by the public and which they contend is of use to the public. Channel 4 said it could not, therefore, be said to be a private publication.

Channel 4 said that there was no evidence that anyone obtained Ms Makey's out of office message that contained her mobile number following broadcast of the programme. Channel 4 also said that the out of office message was a message from a parliamentary office funded by the public, working for the public, and that, if Ms Makey chose to leave a mobile number on her message, it suggested that she used the number, which would have been available to anyone emailing that address, including internet spammers, for work purposes. With regard to Ms Makey's suggestion that she should have been given prior notice that the advert in the All Party Whip was to be broadcast, Channel 4 said that there was no disclosure of home or family details and that there was no requirement in Ofcom's Code or in law that suggested that prior notice be given of broadcast of work details of an organisation and individual working at the public expense.

Decision

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

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

Ms Makey's complaint as outlined earlier was considered by Ofcom's Executive. In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and both parties written submissions.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing rights of the broadcasters to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in Rule 8.1 of the Code which states that any infringement of privacy in programmes or in connection with obtaining material included in programmes must be warranted.

In considering whether Ms Makey's privacy was unwarrantably infringed in the broadcast of the programme, Ofcom first considered whether she had a legitimate expectation of privacy. In considering this, Ofcom took into account Practice 8.6 of the Code which includes that if the broadcast of a programme would infringe the privacy of a person, consent should be obtained before the relevant material is broadcast, unless the infringement is warranted.

Ofcom first considered whether Ms Makey had a legitimate expectation of privacy in relation to the disclosure of her work phone extension and email address in the programme as broadcast. Ofcom noted that there are circumstances where the disclosure of details such as someone's work email address (as opposed to a central one for public enquiries) could attract a legitimate expectation of privacy, for example if the work is of a particularly sensitive or private nature. Ofcom noted that the programme revealed Ms Makey's work contact details by including an image of a page in the All Party Whip. This publication included advertisements for interested parliamentarians to take part in fact finding trips abroad in connection with parliamentary duties, one of which gave Ms Makey's work telephone extension and work email address. Ofcom noted that the broadcast of the advertisement in the All Party Whip, a publication available to those who work in the Houses of Parliament and that contained Ms Makey's details, was incidental to the subject matter of the programme (an investigation of MPs expenses).

Having examined the particular facts of this case, Ofcom noted that Ms Makey's telephone extension is available on the IPU website and that her email address is published on a document on the website in connection with her duties at the IPU.

Ofcom acknowledges that a considerable search is required before the work email address is revealed (it appears on a hotel booking form in connection with a trip she had organised) but it is nevertheless to be found. These details were therefore in the public domain.

Ofcom noted that Ms Makey gave her personal mobile telephone number on her out of office message from her work email address and that the broadcast of her email address had the potential to indirectly disclose her mobile number to members of the public. However, it also noted that this was a work email address and that any out of office messages left on that address would ordinarily be in connection with work duties. Furthermore, Ofcom took the view that nothing in the programme revealed anything of a personal or sensitive nature relating to Ms Makey and that the programme itself did not reveal her mobile number.

While it is not necessarily the case that the prior disclosure or availability of information entirely negates the potential for information to be considered private, in this case, Ofcom considered that it significantly reduced the expectation of privacy in relation to that information. In these circumstances and taking into account the factors detailed above, Ofcom considered that Ms Makey did not have a legitimate expectation of privacy in relation to the disclosure of her work contact details in the programme as broadcast. In light of this, Ofcom considered that it was not incumbent on the programme makers to obtain Ms Makey's consent to the broadcast of the advertisement in the All Party Whip, which incidentally revealed her work contact details, or to obscure those details.

Having concluded that Ms Makey did not have a legitimate expectation of privacy, it was not necessary for Ofcom to further consider whether any infringement of privacy was warranted.

Accordingly Ofcom has not upheld Ms Makey's complaint of unwarranted infringement of privacy in the broadcast of the programme.

Other Programmes Not in Breach

Up to 15 February 2010

Programme	Transmission Date	Broadcaster	Categories	Number of complaints
8 Out of 10 Cats	05/02/2010	Channel 4	Religious Offence	25
8 Out of 10 Cats	29/01/2010	Channel 4	Generally Accepted Standards	3
8 Out of 10 Cats	02/02/2010	Channel 4	Generally Accepted Standards	2
8 Out of 10 Cats	12/02/2010	Channel 4	Generally Accepted Standards	1
A Girl's Guide to 21st Century Sex	28/01/2010	Fiver	Sex/Nudity	1
Afternoon Live	11/02/2010	Sky News	Generally Accepted Standards	1
Alan Carr: Chatty Man	04/02/2010	Channel 4	Generally Accepted Standards	1
Alan Carr: Chatty Man (trailer)	03/02/2010	Channel 4	Sex/Nudity	1
All Star Mr & Mrs	13/02/2010	ITV1	Generally Accepted Standards	6
All Star Mr & Mrs	06/02/2010	ITV1	Generally Accepted Standards	1
Andrew Marr's History of Modern Britain	05/02/2010	BBC 2	Generally Accepted Standards	1
Ary News	04/12/2009	Ary News	Generally Accepted Standards	1
Assassin's Creed: Lineage	19/11/2009	Film24	Commercial References	1
ATP World Tour Finals	24/11/2009	Sky Sports 1	Commercial References	1
Balls of Steel	20/01/2010	4 Music	Religious Offence	1
BBC News	07/02/2010	BBC News Channel	Generally Accepted Standards	1
Being Human	24/01/2010	BBC 3	Sex/Nudity	1
Beyond Belief	25/01/2010	BBC Radio 4	Generally Accepted Standards	1
Big Brother's Big Mouth	24/01/2010	Channel 4	Religious Offence	1
Big Brother's Big Mouth	31/01/2010	Channel 4	Generally Accepted Standards	1
Big Brother's Big Mouth	27/01/2010	E4	Generally Accepted Standards	1
Big Brother's Big Mouth ¹	29/01/2010	E4	Generally Accepted Standards	7
Big Deal Live!	11/10/2009	Big Deal	Competitions	1
Big Deal Live!	11/10/2009	Big Deal	Generally Accepted Standards	1
Bones	10/12/2009	Sky 1	Undue Prominence	3
Brainiac: Science Abuse	30/01/2010	Sky 1	Sex/Nudity	1
Brainiac: Science Abuse	30/01/2010	Sky 3	Sex/Nudity	1
Britain's Really Disgusting Food	25/01/2010	BBC 1	Animal Welfare	1
Caprica	02/02/2010	Sky 1	Other	1
Casual Cruelty	10/02/2010	Radio 4	Other	1
Celebrity Big Brother	12/01/2010	Channel 4	Generally Accepted Standards	1
Celebrity Big Brother	29/01/2010	Channel 4	Offensive Language	1
Celebrity Big Brother	27/01/2010	Channel 4	Use of Premium Rate Numbers	3
Channel 4 ident	11/02/2010	Channel 4	Unconscious influence/hypnosis/subliminal	1
Channel 4 News	16/09/2009	Channel 4	Inaccuracy/Misleading	1
Channel 4 News	08/02/2010	Channel 4	Religious Issues	1
Channel 4 News	26/01/2010	Channel 4	Due Impartiality/Bias	1

¹ Ofcom received two requests for a review of the decision regarding Big Brother's Big Mouth, 29 January 2010, 23:05. The requests for review were referred the Broadcasting Review Committee. Its decision can be found at http://www.ofcom.org.uk/tv/obb/prog_cb/obb158/.

Channel 4 News	03/02/2010	Channel 4	Generally Accepted Standards	1
Chester Dee 106	19/11/2009	Chester Dee 106	Undue Prominence	1
Chris Moyles Show	29/01/2010	BBC Radio 1	Substance Abuse	1
Christian O'Connell Breakfast Show	29/01/2010	Absolute Radio	Generally Accepted Standards	1
Coronation Street	01/02/2010	ITV1	Generally Accepted Standards	1
Coronation Street	08/02/2010	ITV1	Religious Offence	1
Coronation Street	01/02/2010	ITV1	Substance Abuse	1
Coronation Street	08/02/2010	ITV1	Generally Accepted Standards	1
Currys' sponsorship of The Simpsons	01/01/2010	Sky 1	Generally Accepted Standards	1
Dancing on Ice	07/02/2010	ITV1	Generally Accepted Standards	1
Dancing on Ice	31/01/2010	ITV1	Advertising	1
Dancing on Ice	10/01/2010	ITV1	Flashing images	1
Deal or No Deal	24/01/2010	Channel 4	Sex/Nudity	2
Destroyed in Seconds (trailer)	14/01/2010	Discovery Turbo	Generally Accepted Standards	1
Dickinson's Real Deal	09/02/2010	ITV1	Competitions	1
Dispatches	08/02/2010	Channel 4	Due Impartiality/Bias	1
Dispatches	08/02/2010	Channel 4	Inaccuracy/Misleading	2
Dispatches	01/02/2010	Channel 4	Generally Accepted Standards	1
Doctors	08/01/2010	BBC 1	Sex/Nudity	1
EastEnders	25/01/2010	BBC 1	Generally Accepted Standards	1
EastEnders	04/02/2010	BBC 1	Violence	1
EastEnders	01/02/2010	BBC 1	Religious Offence	1
EastEnders	01/02/2010	BBC 1	Substance Abuse	1
Elaine Paige on Sunday	07/02/2010	BBC Radio 2	Offensive Language	1
Embarrassing Bodies	10/02/2010	Channel 4	Generally Accepted Standards	1
Embarrassing Bodies	03/02/2010	Channel 4	Generally Accepted Standards	1
Emmerdale	09/02/2010	ITV1	Generally Accepted Standards	1
Extreme Fishing with Robson Green	04/02/2010	Five	Offensive Language	1
FA Cup Live	13/02/2010	ITV1	Generally Accepted Standards	2
Five News Update	14/02/2010	Five	Generally Accepted Standards	1
Gavin and Stacey	08/02/2010	BBC 3	Sex/Nudity	1
GMTV	11/02/2010	ITV1	U18's in Programmes	1
GMTV	22/01/2010	ITV1	Generally Accepted Standards	1
Gordon's Great Escape	20/01/2010	Channel 4	Religious Offence	1
Got to Dance	31/01/2010	Sky 1	Sex/Nudity	3
Harry Hill's TV Burp	13/02/2010	ITV1	Inaccuracy/Misleading	1
Have I Got News for You	10/02/2010	BBC 2	Generally Accepted Standards	1
Helping Haiti - Everybody Hurts	07/02/2010	ITV1	Commercial References	1
Hollyoaks	10/02/2010	Channel 4	Violence	3
Hollyoaks	09/02/2010	E4	Violence	2
Hollyoaks Omnibus	14/02/2010	Channel 4	Violence	1
Home and Away	05/02/2010	Fiver	Violence	1
House Gift	09/02/2010	ITV1	Generally Accepted Standards	1
Iain Lee	02/02/2010	Absolute Radio	Generally Accepted Standards	1
I'm a Celebrity, Get Me Out of Here!	n/a	ITV1	Animal Welfare	1
ITV News	09/02/2010	ITV1	Animal Welfare	1

ITV News	11/02/2010	ITV1	Generally Accepted Standards	1
ITV News	08/02/2010	ITV1	Animal Welfare	1
ITV News	06/02/2010	ITV1	Generally Accepted Standards	1
ITV News	05/02/2010	ITV1	Due Impartiality/Bias	2
ITV News	03/02/2010	ITV1	Generally Accepted Standards	2
ITV News	22/01/2010	ITV1	Due Impartiality/Bias	1
James May's 20th Century	20/01/2010	Dave	Generally Accepted Standards	1
James O'Brien	03/02/2010	LBC 97.3FM	Generally Accepted Standards	4
Jeremy Vine	04/02/2010	BBC Radio 2	Generally Accepted Standards	3
Jo Frost: Extreme Parental Guidance	09/02/2010	Channel 4	Due Impartiality/Bias	2
Kia Motors' sponsorship of 24	31/01/2010	Sky 1	Generally Accepted Standards	6
Kia Motors' sponsorship of 24	n/a	Sky 1	Generally Accepted Standards	1
Kia Motors' sponsorship of CSI	26/01/2010	Five	Generally Accepted Standards	1
Kia Motors' sponsorship of CSI	n/a	Five	Generally Accepted Standards	12
Kia Motors' sponsorship of CSI	30/01/2010	Five	Generally Accepted Standards	1
Kia Motors' sponsorship of CSI	02/02/2010	Five	Generally Accepted Standards	4
Kia Motors' sponsorship of CSI	28/01/2010	Five USA	Generally Accepted Standards	1
Kia Motors' sponsorship of Law & Order	27/01/2010	Five	Generally Accepted Standards	1
Kia Motors' sponsorship of NCIS	27/01/2010	Five	Generally Accepted Standards	3
Kia Motors' sponsorship of NCIS	10/02/2010	Five	Generally Accepted Standards	1
Kinky and Proud	06/02/2010	Livingit +1	Unconscious influence/hypnosis/subliminal	1
Listomania	25/01/2010	Planet Rock	Generally Accepted Standards	1
Live at the Apollo	30/01/2010	BBC 1	Offensive Language	1
Live FA Cup Football	03/02/2010	ITV1	Unconscious influence/hypnosis/subliminal	1
Loose Women	04/01/2010	ITV1	Competitions	1
Married Single Other	07/02/2010	ITV1	Advertising	1
Meridian Tonight	11/01/2010	ITV1 Meridian	Inaccuracy/Misleading	1
Midsomer Murders	10/02/2010	ITV1	Generally Accepted Standards	9
Midsomer Murders	10/02/2010	ITV1	Religious Offence	1
Midsomer Murders	11/02/2010	ITV1	Offensive Language	1
Midsomer Murders	08/02/2010	ITV1	Offensive Language	1
Midsomer Murders	27/01/2010	ITV1	Generally Accepted Standards	1
Midsomer Murders	08/02/2010	ITV1	Offensive Language	1
Mike Parry	19/12/2009	Talksport	Offensive Language	1
Mo	31/01/2010	Channel 4	Offensive Language	2
Mock the Week	05/02/2010	BBC 2	Generally Accepted Standards	1
Mock the Week	21/01/2010	BBC 2	Religious Offence	1
My Dream Farm	04/02/2010	Channel 4	Offensive Language	1
Natural World	10/02/2010	BBC 2	Generally Accepted Standards	1
New You've Been Framed!	06/02/2010	ITV1	Dangerous Behaviour	1
News	23/01/2010	Geo News	Generally Accepted Standards	1
News	05/01/2010	Press TV	Due Impartiality/Bias	1
Paul Oldfield	04/02/2010	Moorlands	Dangerous Behaviour	1

		Radio		
Piers Morgan On....Marbella	12/01/2010	ITV1	Generally Accepted Standards	6
Pineapple Dance Studios	14/02/2010	Sky 1	Offensive Language	1
Pineapple Dance Studios	14/02/2010	Sky 1	Sex/Nudity	1
Planet's Funniest Animals	30/01/2010	ITV2	Generally Accepted Standards	1
Popstar to Operastar	29/01/2010	ITV1	Sex/Nudity	1
Popstar to Operastar	05/02/2010	ITV1	Use of Premium Rate Numbers	1
Promotions	09/12/2009	Sky 1	Advertising	1
QI	29/01/2010	BBC 1	Sex/Nudity	1
Relocation, Relocation	03/02/2010	Channel 4	Commercial References	1
Renault sponsorship of films on 4	31/01/2010	Channel 4	Generally Accepted Standards	1
Road Wars	06/02/2010	Sky 3	Inaccuracy/Misleading	1
Sexcetera	17/01/2010	Virgin 1	Sex/Nudity	1
Shameless	09/02/2010	Channel 4	Generally Accepted Standards	1
Shameless	03/02/2010	Channel 4	U18 - Coverage of Sexual/other offences	1
Silent Witness	04/02/2010	BBC 1	Violence	2
Silent Witness	28/01/2010	BBC 1	Suicide/Self Harm	1
Six O'Clock News	10/02/2010	BBC Radio 4	Generally Accepted Standards	1
Skins	28/01/2010	E4	Generally Accepted Standards	1
Sky HD promo	24/01/2010	Sky Sports 1	Inaccuracy/Misleading	1
Sky HD promo	24/01/2010	Sky Sports 3	Inaccuracy/Misleading	1
Sky News	05/02/2010	Sky News	Inaccuracy/Misleading	1
Sky News	28/01/2010	Sky News	Generally Accepted Standards	1
Soccer A.M.	30/01/2010	Sky Sports 1	Generally Accepted Standards	1
Sorry, I've Got No Head	01/02/2010	BBC 1	Generally Accepted Standards	1
Sorry, I've Got No Head	08/02/2010	BBC 1	Sex/Nudity	1
Sponsorship of various programmes	26/10/2009	TV6 (Sweden)	Sponsorship	1
Sponsorship of various programmes	27/10/2009	TV8 (Sweden)	Sponsorship	1
Sunday Live	31/01/2010	Sky News	Inaccuracy/Misleading	1
Sunrise	03/02/2010	Sky News	Generally Accepted Standards	1
Sunrise	02/02/2010	Sky News	Generally Accepted Standards	1
The Alan Titchmarsh Show	28/01/2010	ITV1	Sex/Nudity	1
The Alan Titchmarsh Show	08/02/2010	ITV1	Generally Accepted Standards	7
The Alan Titchmarsh Show	10/02/2010	ITV1	Sex/Nudity	6
The Alan Titchmarsh Show	02/02/2010	ITV1	Dangerous Behaviour	1
The Bible: A History	31/01/2010	Channel 4	Generally Accepted Standards	1
The Brit Awards 2010 (trailer)	04/02/2010	ITV1	Generally Accepted Standards	1
The Home Show	02/02/2010	Channel 4	Inaccuracy/Misleading	1
The National Television Awards	20/01/2010	ITV1	Inaccuracy/Misleading	1
The National Television Awards	20/01/2010	ITV1	Use of Premium Rate Numbers	1
The One Show	14/12/2009	BBC 1	Offensive Language	1
The Royle Family	25/12/2009	BBC 1	Generally Accepted Standards	5
The Simpsons	02/02/2010	Channel 4	Violence	1
The Simpsons	02/02/2010	Channel 4	Generally Accepted Standards	1
The Simpsons	01/02/2010	Sky 1	Substance Abuse	1
The Vampire Diaries (trailer)	13/02/2010	ITV2	Violence	1
The Weakest Link	04/02/2010	BBC 1	Sex/Nudity	1

The Wright Stuff	22/01/2010	Five	Generally Accepted Standards	1
The Wright Stuff	02/02/2010	Five	Inaccuracy/Misleading	1
This Morning	29/01/2010	ITV1	Inaccuracy/Misleading	1
This Morning	29/01/2010	ITV1	Generally Accepted Standards	1
To Let	21/12/2009	BBC 2	U18's in Programmes	1
Tombola.co.uk's sponsorship Emmerdale	n/a	ITV1	Sponsorship	2
Total Kiss - Black Eyed Peas "My Humps"	31/01/2010	Kiss	Offensive Language	1
Tower Block of Commons	08/02/2010	Channel 4	Generally Accepted Standards	1
Tower Block of Commons (trailer)	01/02/2010	Channel 4	Generally Accepted Standards	1
Welshy	30/01/2010	Nation Radio	Generally Accepted Standards	1
What Katie Did Next	04/02/2010	ITV2	Dangerous Behaviour	1
What Katie Did Next	11/02/2010	ITV2	Dangerous Behaviour	1
Woman's Hour	11/02/2010	BBC Radio 4	Crime (incite/encourage)	1
Wonderland	25/01/2010	BBC 1	Generally Accepted Standards	1
WWE Smackdown	16/01/2010	Sky Sports 3	Violence	1