

Programme complaints bulletin

Standards & Fairness and Privacy

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Ofcom
OFFICE OF COMMUNICATIONS

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Introduction

Some of the following complaints were received by the legacy regulators prior to the commencement of Ofcom. Under the terms of the Communications Act 2003, they became the responsibility of Ofcom on 29 December 2003.

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom has developed its own Codes. These will be published at the end of 2004 following a full public consultation.

The Codes currently in force for programming are:

- **Advertising and Sponsorship Code**
Radio Authority
- **News and Current Affairs Code & Programme Code**
Radio Authority
- **Code on Standards**
Broadcasting Standards Commission
- **Code on Fairness and Privacy**
Broadcasting Standards Commission
- **Programme Code**
Independent Television Commission
- **Code of Programme Sponsorship**
Independent Television Commission

These are all available on the Ofcom website: www.ofcom.org.uk

The cases have been considered against the above Codes.

- Some programmes will have breached the relevant code (Upheld).
- Others will not have breached the code (Not upheld).
- However, there may be occasions where Ofcom recognises that a broadcaster has taken appropriate action in response to an issue (for instance, the broadcaster may recognise that an error has occurred and taken responsible steps to rectify it). Ofcom will consider that these complaints have been resolved. But even when such action has been taken, Ofcom may still consider it appropriate to find that the programme breached the Code due to the seriousness of the issues involved.

The layout of the report reflects these distinctions.

Standards cases

Upheld cases

The Big Story: My Word

Fox News, 28 January, 22:00

Issue

My Word is a personal comment section at the end of an hour-long news programme called The Big Story. On the day of the publication of the Hutton Inquiry Report into the circumstances surrounding the death of Dr David Kelly (which contained criticism of the BBC), John Gibson, the programme anchor, delivered his regular editorial opinion piece. In the course of which, John Gibson claimed:

- a) that the BBC had “a frothing-at-the-mouth anti-Americanism that was obsessive, irrational and dishonest”;
- b) that the BBC “felt entitled to lie and, when caught lying, felt entitled to defend its lying reporters and executives”;
- c) that the BBC reporter, Andrew Gilligan, in Baghdad during the American invasion, had “insisted on air that the Iraqi Army was heroically repulsing an incompetent American Military”;
- d) that “the BBC, far from blaming itself, insisted its reporter had a right to lie – exaggerate – because, well, the BBC knew that the war was wrong, and anything they could say to underscore that point had to be right”.

24 viewers complained to Ofcom that that the item was “misleading”, “went far beyond reasoned criticism” and “misrepresented the truth”.

In light of such a damaging critique, we asked Fox News whether it had offered the BBC an opportunity to respond.

Response

- a) As for the factual basis of John Gibson’s piece, Fox News said that the BBC had appointed a special executive to monitor ‘pro-Arab’ bias at the network; that tapping the phrase “BBC anti-American” into Google resulted in 47,200 hits; that the BBC “continually bashed” American policy and ridiculed the American President; and persecuted Tony Blair because he was pro-American. These facts justified the phrase “frothing-at-the-mouth anti-Americanism that was obsessive, irrational and dishonest”.
 - b) The BBC “felt entitled to lie and, when caught lying, felt entitled to defend its lying reporters and executives” was a summation of the BBC’s
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response to the complaint against Andrew Gilligan's embellishment of his interview with Dr David Kelly.

- c) Fox News accepted that Andrew Gilligan had not actually said the words that John Gibson appeared to attribute to him. However, Gibson was paraphrasing Gilligan's words on April 5 2003 when, as US troops moved towards Baghdad, he said "I'm at the centre of Baghdad ... and I don't see anything, but the Americans have a history of making these premature announcements". The Iraqi Minister of Information said that the Iraqis had recaptured the airport, which Gilligan and the BBC, Fox News contended, accepted at face value.
- d) When it became clear that Gilligan's source, Dr David Kelly, was not as highly placed in the Government as Gilligan had claimed, BBC executives did not relay their concerns to editorial staff as quickly as they should have done, with the result that Gilligan's story gained currency. BBC executives at the highest level "argued that the higher form of journalism practised by the BBC required their vigorous defence of Gilligan". This supported Gibson's statement that "the BBC ... insisted its reporter had a right to lie". It was clear from their reporting of the war, argued Fox News, that the BBC took a position that the war was wrong.

Fox News did not contact the BBC for a reaction or response to John Gibson's comments since this "segment is reserved for his opinion only". But it pointed to an earlier news report that day from London about the Hutton Inquiry

Decision

The Programme Code requires that all factually-based programmes should be characterised by “a respect for truth”; that in Personal View programmes the opinions expressed, however partial, should “not rest upon false evidence” and the “facts should be respected”. To ensure fairness, programmes which contain a damaging critique of any individual or organisation should normally offer those criticised an opportunity to respond.

- a) Ofcom does not accept that Fox News’s claim that an appointment of a monitor to detect ‘pro-Arab’ bias is proof of an “anti-Americanism that was obsessive, irrational and dishonest” within the BBC. Similarly, we do not believe that a simple Internet search for the words “BBC” and “anti-American” is sufficient evidence to back-up such a statement. (An Internet search will only identify those sites which contain those words, it will not make any editorial judgement over how those words are used). Fox News stated that the BBC’s approach was “irrational” and “dishonest”. However, it did not provide any evidence other than to say the BBC bashed American policy; or that it ridiculed the US President without any analysis; and that it persecuted Tony Blair.
 - b) We do not accept that the Hutton Inquiry supported the statement that the “BBC felt entitled to lie and when caught lying, felt entitled to defend its lying”. The Inquiry stated that BBC editorial system was “defective”. At no stage did Hutton accuse the BBC management of lying.
 - c) Fox News argue that the presenter was not directly quoting Gilligan when he claimed that the reporter “insisted on air that the Iraqi Army was heroically repulsing an incompetent American Military”. However, the manner in which John Gibson delivered these lines and the fact that he indicated that Gilligan said it “on-air” gave the distinct impression that he was quoting Gilligan directly. It did not appear that he was summarising Gilligan’s reporting. Furthermore, Fox News failed to provide any evidence, except that it felt that Gilligan’s reporting of the US advance into Baghdad was incorrect, that supported this statement.
 - d) As previously stated the Hutton Inquiry concluded that the BBC editorial system was “defective”.
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There is no evidence, and Fox News did not provide any, that the BBC “insisted its reporter had a right to lie”. Fox News argue that from its “study of BBC reporting” it could claim that the “BBC knew that the war was wrong”. Fox News’s “study” appears to be based on its own viewing and listening of BBC services. It could provide nothing more than this statement to back up this assertion.

We recognise how important freedom of expression is within the media. This item was part of a well-established spot, in which the presenter put forwards his own opinion in an uncompromising manner. However, such items should not make false statements by undermining facts. Fox News was unable to provide any substantial evidence to support the overall allegation that the BBC management had lied and the BBC had an anti-American obsession. It had also incorrectly attributed quotes to the reporter Andrew Gilligan.

Even taking into account that this was a ‘personal view’ item, the strength and number of allegations that John Gibson made against the BBC meant that Fox News should have offered the BBC an opportunity to respond.

Fox News was therefore in breach of Sections 2.1 (respect for truth), 2.7 (opportunity to take part), and 3.5(b) (personal view programmes – opinions expressed must not rest upon false evidence) of the Programme Code.

Wire In The Blood
ITV1, 26 February, 2100

Issue This crime drama series was based on the books of Val McDermid, in which a psychologist and police detective investigate serial killers. Eleven viewers were concerned about the violence in this episode, particularly a scene very near the beginning, in which a man was murdered by a nail bar (a sharply-angled metal tool) being rammed down his throat.

Response ITV1 believed that, by this second series, the drama was clearly established as dark, edgy and sometimes brutal. Recognising that it was not to everyone's taste, the broadcaster had made sure that it had provided the clearest signposting on screen to ensure that viewers made an informed choice. The announcement stated "This programme contains violent and disturbing images and scenes of a sexual nature".

The opening scenes gave snapshot images of violence, with the more graphic acts shown much later in the programme, after 21:45. The broadcaster believed that the scene near the beginning, of a man being beaten up, was brief and restrained. The detective, Carol Jordan, then described his murder - her quiet and understated delivery prevented any perception that the crime was being highlighted or glorified. The scene featuring the nail bar's impact was less than one-second in duration, with the majority of the scene focused on Jordan's and the psychologist's expressionless faces. ITV1 believed that this established the seriousness of the crime, without dwelling on the act or being gratuitously violent.

Later on in the programme, there were scenes of violence, which were intrinsic to the subject matter. ITV1 believed that the portrayal would not have caused widespread offence. Many of the shots lacked definition or real time motion, making them more indistinct and reducing their impact.

The broadcaster believed that there was a place in the schedule for more edgy, challenging drama and, whilst its appeal did not extend to the entire audience, this should not preclude the exploration of this genre.

Decision

Within a broad range of drama on ITV1, viewers expect some programmes to have a darker, more adult tone. We also recognise that broadcasters, such as ITV1, must explore and experiment. However, there is also an expectation that any programmes starting immediately after the 9pm Watershed will not swiftly include stronger material, more suited to later in the schedule. Last year, Ofcom's predecessor, the ITC, warned the broadcaster about scenes of violence in the first series and the need to take account of its scheduling immediately after the Watershed.

In this episode, we accept that the warning would have alerted viewers to the nature of the drama, but felt that this did not clearly indicate the strength of the images from the outset, in particular the brutal murder. The pictures of the nail bar being rammed down a victim's throat occurred only three minutes into the programme. Its impact was immensely strong, given the unusual method of murder, the imagery in close-up and the accompanying rasping noises as the tool was forced in. Although this scene was brief, we believe that the depiction of such a gruesome murder, so soon after the 9pm Watershed, would have gone beyond viewers' expectations, even for this genre.

This scene was in breach of Section 1.2 (Family Viewing and the Watershed) and Section 1.7 (Violence) of the Programme Code.

Standards cases

Not upheld cases

Vic & Bob's Top of the Pops 2

BBC2, 9 February, 18:45

Issue This programme was an edition of the retrospective music series hosted by the two comedians. A viewer, who was watching with his young children, objected to the inclusion of a song by Jilted John which contained the words 'bitch', 'slag' and 'slut'.

Response The BBC said that the song reached the chart in 1978, by which time the 'New Wave' phenomenon had been a dominant force in popular music for a couple of years. To a genre which always had a less serious side, Jilted John contributed an undiluted dose of irony, clearly poking fun at other bands. The BBC believed that these intentions would have gone a long way towards mitigating potential offence, both then and now. Jilted John was also clearly a period piece. In the BBC's experience, audiences were usually prepared to make allowances for archive performances such as this - when required.

The BBC pointed to research which found that the word 'slag' was thought particularly strong by fewer than one viewer in five. There was no evidence in this case that any of the three words were, in the circumstances, thought offensive by other viewers. Audience research showed that very few children of a young age were represented in the audience. In addition, the preceding and following programmes would have had little to attract young children.

Decision While we accept that many viewers do find the use of such language problematic pre Watershed, we also acknowledge that viewers do have different expectations of BBC2. We considered that, on balance, the lyrics of this 1978 song had been acceptable in the context of this programme, aimed at an older audience.

The item did not contravene the Standards Code of Guidance.

EastEnders

BBC1, 22 March, 20:00

Issue

In this episode, Juley has been making himself at home in his brother Gus's flat. Kelly, Gus's flatmate, suggests they clear up the mess they have made. Gus tentatively suggests this to Juley, who responds with astonishment saying "Has Gus turned gay?" and then exclaiming, "Gus can't be a chi-chi man!". Eighteen viewers were concerned at these comments, which they considered homophobic. They also felt the use of this Jamaican term for a homosexual person was offensive as, in their view, it had violent connotations due to its association with gangsta rap.

Response

The BBC believed that Juley's comments were very much in keeping with his character. He is established as holding unreconstructed male views, including blatant sexism towards women in the drama. Juley is always taking the opportunity to put Gus down and in this context, Juley's use of the term was essentially mischievous and mildly provocative. The BBC was aware of the potential offence the term 'chi-chi man' can cause, but suggested that this was generally when it is used aggressively. Juley essentially was being light-hearted, rather than vicious, playing on his brother's good-hearted nature.

Decision

Writers should have the creative freedom to develop characters in whichever way they wish, providing that they do not cause unjustifiable offence or harm. In programmes, such as soaps, which reach a wide-ranging audience, broadcasters are responsible for ensuring that they do not appear to be endorsing offensive or anti-social behaviour.

We were aware that as the character is a younger member of the cast, who frequently finds himself in light-hearted predicaments, some younger viewers may be inclined to identify with Juley and, as a result, respond to his more extreme views. In such situations, care should be taken when introducing more recently popularised derogatory expressions, such as this Jamaican term. We are aware that words with ethnic roots can change their intent when introduced into a wider community and the Code on Standards asks

broadcasters to bear this development in mind. Whilst 'chi-chi man' is meant as a disparaging term, it is not automatically linked with violent intent towards the gay community. We do not believe, therefore, that viewers in general would find this expression unacceptable under any circumstances.

Importantly, we believe that on this occasion, regular viewers would have understood the type of person Juley represented and, on this basis, we thought that his comments were in keeping with his character. We believe that the comments would not have encouraged homophobic views. Given the character's non-aggressive use of this term and his established behaviour, we concluded that the use of the term was justified by the context in which it was used.

The complaints did not contravene the Code on Standards.

Other programmes not in breach /outside remit (closed 11 May to 25 May)

Programme Title	Channel	Category	No of Complaints
A Place in Greece	C4	Language	2
General	Adult Channels	Sexual Content	3
Airline	ITV1	Offence	2
B4U	B4U	Offence	1
BBC News	BBC1	Violence	3
BBC News	BBC1	Impartiality	2
BBC News	BBC1	Offence	4
BBC News	BBC1	Misleading	2
BBC2 Radio News	BBC Radio 2	Impartiality	1
BBC Radio London	BBC1	Offence	1
BBC Rugby trailer	BBC1	Sexual Content	1
BBC Six o'Clock News	BBC1	Offence	2
BBC Six o'Clock News	BBC1	Impartiality	1
BBC Skateboard Ident	BBC1	Miscellaneous	1
Beat 106	Beat 106FM	Sexual Content	1
Bedtime	BBC1	Religious Offence	1
Bible Stories	BBC2	Accuracy	1
Big Brother trail	C4	Offence	22
Britain's Worst Husband	Five	Offence	1
Britain's Worst Pet	Five	Offence	1
Building the Dream	ITV1	Language	1
C3 News	ITV1	Accuracy	2
C3 News	ITV1	Misleading	2
C3 News	ITV1	Impartiality	1
C3 News	ITV1	Offence	4
C4 News	ITV1	Impartiality	2
C4 News	ITV1	Offence	4
C4 News	ITV1	Language	1
Channel U music video	Channel U	Language	1
Chart Show	ITV1	Offence	1
Chris Moyles	BBC Radio 1	Language	1

Programme Title	Channel	Category	No of Complaints
Close to the Edge	BBC1	Offence	2
Come and Have a Go	BBC1	Offence	1
Coronation Street	ITV1	Offence	11
Crufts	BBC2	Miscellaneous	1
Daddy, What did you do in the Strike?	ITV1	Impartiality	1
Dead Ringers	BBC2	Offence	2
Death on Camera	BBC2	Impartiality	2
Diarmuid's Big Adventure	BBC2	Offence	2
dick & dom in da bungalow	BBC1	Offence	1
Children's Beauty Pageants	Discovery Channel	Offence	1
Dispatches	C4	Offence	2
Dispatches	C4	Impartiality	2
Dispatches	C4	Language	2
Distraction	C4	Offence	4
Edge of the City (pre-transmission)	C4	Offence	44
Emmerdale	ITV1	Offence	4
ER	C4	Scheduling	1
Eurovision Song Contest	BBC1	Offence	1
Fight for Baghdad	Five	Violence	1
Fimbles	CBeebies	Offence	1
Five Live	Five	Misleading	1
Five News	Five	Misleading	1
Footballer's Wives	ITV1	Violence	6
Footballer's Wives	ITV1	Offence	1
Footballer's Wives Exposed	ITV2	Miscellaneous	1
Forces for Good (pre-transmission)	BBC	Offence	1
Formula 1	ITV1	Scheduling	2
Freeview	BBC1	Misleading	2
Friday Night with Jonathan Ross	BBC1	Religious Offence	5
Friendly TV competition	Friendly TV	Misleading	1
Friends	C4	Scheduling	1
Lyrics - Game Network	Game Network	Language	1
GMTV	ITV1	Accuracy	1

Programme Title	Channel	Category	No of Complaints
GMTV	ITV1	Offence	2
Success in Life	God Channel	Religious Offence	1
Gunpowder Treason and Plot	BBC2	Violence	1
Hardware	ITV1	Scheduling	1
Have I Got News For You?	BBC1	Offence	1
Hell's Kitchen	ITV1	Offence	7
Historyonics	BBC1	Offence	1
Holidays from Hell	ITV1	Offence	1
I'm a Celebrity	ITV1	Offence	1
Jeremy Vine	BBC Radio 2	Offence	1
Jon Gaunt Show	BBC London	Language	1
Jon Gaunt Show	BBC London	Offence	1
Julian Worricker	BBC Radio 5	Religious Offence	1
Just for Laughs	BBC1	Offence	3
Kid Gang	Five	Violence	1
Laid Bare	Bravo	Scheduling	1
LBC	LBC	Offence	1
Life of Grime	BBC1	Offence	1
Littlejohn	Sky News	Impartiality	1
Living TV	Living TV	Misleading	1
London Tonight	ITV1	Offence	1
Mel Gibson's God's Lethal Weapon	C4	Violence	1
Meridian News	ITV1	Offence	2
Midsomer Murders	ITV1	Violence	3
Most Haunted Live	Living TV	Impartiality	2
Murder City	ITV	Scheduling	1
Murder Most Foul	ITV1	Offence	1
Neighbours	BBC1	Scheduling	1
Never Mind the Buzzcocks	BBC2	Offence	1
Nighty Night	BBC2	Offence	1
Noah's Ark	BBC1	Impartiality	3
Northsound	Northsound Radio	Scheduling	1
Offside	BBC1	Offence	1
Panorama	BBC1	Offence	6

Programme Title	Channel	Category	No of Complaints
Pete & Geoff Breakfast	Virgin Radio	Language	3
Pilate: the Man who Crucified Christ	C4	Religious Offence	3
Poirot	ITV1	Offence	1
Police Protecting Children	BBC2	Offence	4
Pop Idol	ITV1	Accuracy	2
Popetown	BBC	Religious Offence	6
Power FM	Power FM	Offence	1
Jo Whiley	BBC Radio 1	Offence	2
Terry Wogan	BBC Radio 2	Impartiality	1
Real Story	BBC1	Offence	1
Real Story	BBC1	Religious Offence	1
Rebecca Loos: My Story	Sky One	Offence	2
Revenge: Getting Even with Your Ex	Five	Offence	1
Richard and Judy	C4	Scheduling	2
Room 101	BBC2	Language	1
Royal Millions	BBC1	Accuracy	1
Rugby Six Nations	ITV1	Offence	1
Sarah Kennedy	BBC Radio 2	Offence	2
Secrets and Spies – in the Iraq War	BBC1	Impartiality	1
Simon Mayo	BBC Radio 5	Language	1
Sky News	Sky News	Offence	3
Slaymaker	S4C	Language	1
Smash Hits Chart	C4	Scheduling	2
Songs of Praise	BBC1	Miscellaneous	1
Speak Your Mind	BBC2	Offence	1
Stitch Up	BBC1	Language	1
T4	C4	Offensive	2
TalkSport	TalkSport	Offensive	3
Tarrant on CCTV	ITV1	Offensive	1
Terry Jones' Medieval Lives	BBC2	Offensive	1
That Was the Week We Watched	BBC2	Offensive	1
The All Star Comedy Show	ITV1	Religious Offence	1
The Bill	ITV1	Violence	2

Programme Title	Channel	Category	No of Complaints
The Chris Moyles Show	BBC Radio 1	Religious Offence	1
The Game	C4	Offence	3
The Man Who Ate his Archbishop's Liver	C4	Offence	3
The OC	C4	Scheduling	1
The Operation – Live	Five	Offence	3
The Sack Race	BBC2	Religious Offence	1
The Saturday Play	BBC Radio 4	Miscellaneous	1
The Sea Wolves	C4	Language	1
The Simpsons	C4	Language	1
The Simpsons	C4	Offensive	1
The Spiral Staircase	Five	Scheduling	1
The Worst Week of My Life	BBC1	Sexual content	1
The Wright Stuff	Five	Offence	2
This is Craig Brown	BBC Radio 4	Miscellaneous	1
This Week	BBC1	Impartiality	1
This Week	BBC1	Offence	2
Thought for the Day	BBC Radio 4	Religious offence	4
Time Flyers	BBC2	Scheduling	1
Today	BBC Radio 4	Religious Offence	1
Tonight with Trevor McDonald	ITV1	Impartiality	31
Top Gear	BBC2	Offence	1
Top of the Pops	BBC1	Scheduling	4
Trial & Retribution III	ITV1	Offence	3
Trouble in Paradise	ITV1	Offence	2
Virgin Breakfast Show	Virgin Radio	Offence	1
Watchdog	BBC1	Misleading	1
Watchdog	BBC1	Offence	1
Wax On	BBC Radio 2	Language	1
We are the Champions: the Nation Celebrates	ITV1	Miscellaneous	1
Weakest Link	BBC1	Offence	1
Westcountry Live News	ITV1	Miscellaneous	1
When Black Became Beautiful	BBC2	Scheduling	2

Programme Title	Channel	Category	No of Complaints
Who Wants to be a Millionaire?	ITV1	Offence	1
You've Been Framed	ITV1	Offence	1
24 Carott Gold	BBC1	Offence	1
100 Greatest Sexy Moments	C4	Sexual content	2
10 Years Younger	C4	Misleading	1