

Decision of the Election Committee on a Due Impartiality Complaint Brought by the Scottish National Party in relation to the “First Election Debate”, ITV1, 15 April 2010

On Monday 26 April 2010, Ofcom’s Election Committee (“the Committee”)¹ met to consider and adjudicate upon a complaint made on behalf of the Scottish National Party (“the SNP”) about the broadcast of the “First Election Debate” on the ITV network (in all its regions) at 20:30 on 15 April 2010. The complaint was made by letter dated 17 April 2010 (the “Letter of Complaint”) from the Chief Executive of the SNP, Peter Murrell.

The Committee consisted of the following members: Philip Graf (Chairman of the Committee, Chairman of the Ofcom Content Board and Deputy Chairman of Ofcom), Richard Ayre (Member for England of Ofcom’s Content Board), Anthony Lilley (Member of Ofcom’s Content Board), Joyce Taylor (Member for Scotland of Ofcom’s Content Board), Stewart Purvis (Executive Ofcom Partner with responsibility for Content and Standards).

For the reasons set out below, having considered all the submissions and evidence before it under the relevant provisions of the Broadcasting Code, the Committee decided that the SNP’s complaint should not be upheld, that the broadcast of the Debate complied with the requirements of the Broadcasting Code and that no remedial action was required on the part of ITV licensees.

Background

“The First Election Debate”

The “First Election Debate” (“the Debate”) was a 90-minute live factual programme featuring the leaders of the Labour, Conservative and Liberal Democrat parties in debate on domestic affairs based on questions selected from a live studio audience and moderated by the presenter, Alastair Stewart. The programme was produced by ITV Studios for the ITV1 network, and compliance was carried out by ITV Broadcasting Limited.

The SNP’s Complaint

As set out in the Letter of Complaint, the SNP complained that the broadcast of the Debate “*failed to meet the requirements of the Broadcasting Code*” (specifically, the requirements for due impartiality and due accuracy) and that viewers of the Debate in Scotland “*were not given an accurate picture of a number of key public policy issues as they apply in Scotland*”.

In detailing the grounds of its complaint, the SNP made specific submissions as follows:

- a) ITV was in breach of its obligation of impartiality in excluding the SNP from the Debate.
- b) It unfairly excluded the SNP from the negotiations surrounding the Debate.

¹ The Committee’s Terms of Reference are available on Ofcom’s website.

- c) It abdicated its editorial independence in allowing three political parties to dictate the terms of the Programme Format Agreement.
- d) In agreeing the programme format, ITV provided undue prominence to the views and opinions of the Conservative, Labour and Liberal Democrat parties.
- e) The exclusion of the SNP from the Debate resulted in viewers in Scotland being misled on matters of fact and public policy.
- f) ITV failed to make clear to viewers with any serious sufficiency the impact of Devolution on public policy.
- g) ITV selected questions which referred to Britain in devolved policy areas.
- h) ITV failed to seek clarification of facts presented on the programme to explain what nation or nations of the UK these relate to.
- i) Failed to provide adequate or appropriate coverage for the SNP in linked programmes.

The SNP concluded by emphasising that the format of the programme “*was a recipe to misinform or disenfranchise a significant section of the UK electorate*”, and that the Debate “*treated devolved government in Scotland, Wales and Northern Ireland as nothing more than an irritation which could be cured with a few formulaic words before questions on devolved areas were asked. Devolution is not a side show to be ignored.*”

Following correspondence between Ofcom, the SNP and ITV prior to the Committee’s meeting, the SNP accepted that Ofcom was not in a position to deal with heads (b) and (c) above since those heads related to negotiations leading up to the broadcast of the Debate, and not to the on-air content of the Debate (to which the requirements of the Code apply). The Election Committee was satisfied that it should therefore not consider these as separate heads of complaint.

Response from ITV and supplementary submissions of the parties

In response to the SNP’s complaint, ITV (by letter dated 22 April 2010) set out detailed submissions on behalf of ITV Broadcasting Ltd, and on behalf of STV in Scotland, arguing that the broadcast of the Debate was legitimate and in compliance with the requirements of the Broadcasting Code (together with other programming). The SNP in turn provided further submissions, in response to ITV, by letter received by Ofcom on 22 April 2010. ITV replied to those further submissions by letter dated 23 April 2010.

Statutory Framework & the Broadcasting Code

Under section 319 of the Communications Act 2003, Ofcom has a duty to set standards objectives for the content of programmes included in television (and radio) services, which are set out in the Broadcasting Code (“the Code”).

Specifically, the standards objectives include objectives in relation to due impartiality and due accuracy in “news”, and also in relation to “special impartiality requirements” in section 320: section 319(2)(c)&(d).

Section 320 imposes special impartiality requirements in respect of “matters of political or industrial controversy” and “matters relating to current public policy”. In particular, section 320(1)(b) requires “the preservation, in the case of every television programme service..., of due impartiality, on the part of the person providing the service, as respects all of those matters”.

Section 320(4)(a) provides that the requirement in section 320(1)(b) “may be satisfied by being satisfied in relation to a series of programmes taken as whole”.

Section 320(5) provides that Ofcom’s standards code shall contain provision setting out the rules to be observed in connection with (a) the application of the requirement specified in section 320(1)(b), and (b) the determination of what, in relation to that requirement, constitutes a “series of programmes”.

Section 320(6) then provides that any provision made for the purpose of section 320(5)(a) must, in particular, take account of the need to ensure the preservation of impartiality in relation to the following matters (taking each matter separately)– (a) matters of major political or industrial controversy, and (b) major matters relating to current public policy, as well as of the need to ensure that the requirement specified in section 320(1)(b) is satisfied generally in relation to a series of programmes taken as a whole.

Applicable provisions of the Code

Section 5 of the Code makes provision in relation to “*Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions*”.

In the Committee’s view, Rules 5.1 to 5.3 were not applicable to the SNP’s complaint as those provisions relate to the preservation of due impartiality and due accuracy in “news” programmes, and the Debate did not constitute “news” (or the reporting / presenting of “news”) in the sense contemplated by these particular Rules.

The Committee considered that the Debate, as a (non-news) factual programme featuring debate between politicians on domestic affairs at issue in the General Election, was properly to be regarded as a programme relating to “matters of major political and industrial controversy and major matters relating to current public policy”. Such matters are defined in section 5 as being “...*generally matters of political or industrial controversy or matters of current public policy which are of national, and often international, importance...*”

As such the Committee considered that the following provisions of Section 5 were specifically relevant.

Rule 5.11: “...*Due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service (listed above) in each programme or in clearly linked and timely programmes.*”

Rule 5.12: *“In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.”*

For the purposes of the Rules, the Committee also considered the meaning of “due impartiality” as defined at the beginning of Section 5: *“Due” is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. “Due” means adequate or appropriate to the subject and nature of the programme. So “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section Two: Harm and Offence of the Code, is important.”*

The Committee also had regard to Rules 5.5 to 5.10 (in relation to ‘non-major’ “matters of political or industrial controversy”) and considered that those Rules had limited additional relevance to the issues raised by the SNP’s complaint.

Furthermore, given that this complaint was made by the SNP in the course of the current General Election campaign (which began, for the purposes of the application of the Code, with the announcement of the dissolution of Parliament on 6 April 2010 and ends with the close of the poll on 6 May 2010), the Committee also considered the application of Section 6 of the Code: “Elections and Referendums”.

Rule 6.1 of the Code makes clear that *“the rules in Section Five, in particular the rules relating to matters of major political or industrial controversy and major matters relating to current public policy, apply to the coverage of elections and referendums.”*

Further, Rule 6.2 provides that *“Due weight must be given to the coverage of major parties during an election period. Broadcasters must also consider giving appropriate coverage to other parties and independent candidates with significant views and perspectives.”*

As to the meaning of “major parties”, section 6 states that: *“At present in the UK major parties are the Conservative Party, the Labour Party and the Liberal Democrats. In addition, major parties in Scotland and Wales respectively are the Scottish National Party and Plaid Cymru.”*

The Committee's Decision

The Committee carefully considered all the submissions provided by both the SNP and ITV in their helpful and prompt correspondence to assist the Committee within a necessarily limited timeframe. In the light of those submissions, the Committee proceeded to consider the relevant heads of complaint advanced by the SNP.

A) ITV was in breach of its obligation of impartiality in excluding the SNP from the Debate.

In the Committee's view, it was important to bear in mind that the Debate was broadcast during the General Election period, so that the Rules in 5.11 and 5.12 had to be considered together with Rule 6.2.

When reading those provisions together in these circumstances, it was clear that

- i) Due impartiality could be achieved by broadcasters in "clearly linked and timely programmes" included in their services over the election period (Rule 5.11),
- ii) It required an "appropriately wide range of significant views" to be included and "given due weight" in each programme, or in clearly linked and timely programmes, over the course of the election period, and required views and facts not to be misrepresented (Rule 5.12);
- (iii) The qualification imported by the word "due" in relation to impartiality (as defined in Section 5 of the Code) was an important consideration. "Due impartiality" did not mean that an equal division of time had to be given to every view (or set of views) within a programme, or within clearly linked and timely programmes. Its meaning varied according to a variety of contextual factors, including the extent to which the content and approach of a programme is signalled to the audience.
- iv) Whilst "due weight" must be given to the "coverage of major parties" during an election period (for the purposes of Rule 6.2), it was important to consider the particular election in which coverage was provided to political parties and, in relation to "major parties", the nation(s) in which a party was defined as "major".

The Committee noted that section 6 of the Code presently defined the SNP as a "major party" in Scotland, whereas the Conservatives, Labour and Liberal Democrats were defined as "major parties" in the United Kingdom as a whole. The Committee found no reason why those definitions should not be regarded as appropriate for this General Election. The Committee noted that although the SNP forms the current (minority) administration in Scotland, and has a record of substantial electoral support in that nation, it only had seven seats in the Westminster Parliament prior to its dissolution. Furthermore, the SNP is standing candidates for this General Election in only 59 seats, all of which are in Scotland. The SNP is therefore not seeking to contest enough seats to gain an overall majority in the House of Commons.

By contrast, the Labour, Conservative and Liberal Democrat parties are contesting seats across England Scotland and Wales, such that any one of them could potentially form the next UK Government. Furthermore, prior to the dissolution of Parliament those parties had, respectively, over 340, 190 and 60 seats in Parliament in Westminster. For that reason, these parties were properly to be regarded as the major political parties across the United Kingdom (as defined by Section 6 of the Code).

It was in that context that the Committee considered the format and broadcast of the Debate. The Committee noted that the SNP's complaint was not that the Debate had individually excluded its leader, but that it had excluded the SNP from participating in the chance to set out its party's platform alongside the three other major parties against which it was competing across Scotland.

In this respect, the Committee fully appreciated the political and constitutional impact which Devolution had had on the electoral landscape, particularly on areas of domestic policy which formed the focus of the Debate.

It further appreciated the importance of television as a medium, and the potential of televised party leader debates to increase or decrease support for individual political leaders and for their parties as a whole. Equally, the Committee considered that polling evidence which attempted to gauge the impact of such debates on voters' intentions (such as the Ipsos Mori poll provided by the SNP in its supplementary submissions) was of limited relevance in assessing broadcasters' compliance with the due impartiality requirements of the Code at the time when programmes were broadcast. Polling of voters' intentions may be affected by a range of matters and their opinions are likely to fluctuate at different times during an election period. The due impartiality provisions of the Code required the Committee to focus on the content of, and relationship between, relevant programmes said to be in breach of those due impartiality requirements.

In the Committee's view, the Debate was clearly presented to an audience across the United Kingdom as an opportunity to hear from the leaders of the three major UK political parties, one or more of which had a realistic prospect of forming the next UK government, with the leaders themselves seeking to become the next Prime Minister. The moderator of the Debate had expressly introduced it with the words: "...we'll be hearing from three men, each hoping to be the leader of the next UK government..." That being so, the Committee considered that the due impartiality requirements of the Code did not specifically require the inclusion of any party not properly considered to be a major party across the UK as a whole.

Insofar as the Debate itself focused on areas of domestic policy, some of which are devolved to the administrations in Scotland, Wales and/or Northern Ireland, the Committee noted that the moderator of the Debate had sought to signal in advance those question areas put by members of the live studio audience which related to matters of devolved policy. (The sufficiency of these indications is considered below). As a result, the Committee considered that viewers in the UK (including those in Scotland) would have understood that in relation to some of the public policy areas discussed, the Parliament at Westminster and the UK government had no locus in Scotland. In the Committee's view, viewers in Scotland

nonetheless had a legitimate interest in just hearing from the leaders of the three UK-wide parties, each of whom had a realistic prospect of forming the next UK Government, debating domestic matters with implications for the UK as a whole or parts of the UK.

Furthermore, the Committee also considered it relevant under this head that the Debate had signalled to the audience (via the moderator) that viewers in the devolved nations could see televised debates between leading figures of the major parties in those nations (which expressly included the SNP) on issues of policy most relevant to those nations. Due impartiality had to be assessed on that basis. However, the Committee considered this point further specifically in relation to head (i) below.

For these reasons, the Committee concluded that the exclusion of the SNP from the Debate did not, of itself, constitute a breach of the requirements of the Code in relation to due impartiality and/or due weight of coverage given to political parties, and therefore this head of complaint should not be upheld.

D) In agreeing the programme format, ITV provided undue prominence to the views and opinions of the Conservative, Labour and Liberal Democrat parties.

The Committee considered this specific head of complaint as a further aspect of the SNP's due impartiality complaint under Rules 5.11 and 5.12 (and 6.2 of the Code), noting that Rule 5.13 ("*Broadcasters should not give undue prominence to the views and opinions of particular persons or bodies on matters of political or industrial controversy...*") is not expressed to apply to television licence services².

For the reasons set out in relation head (a) of the SNP's complaint above, the Committee considered that the ITV network broadcast of the Debate did not provide undue prominence to the views and opinions of the Conservative, Labour and Liberal Democrat parties. Viewers in Scotland had a legitimate interest in hearing from the leaders of the three UK-wide parties with a realistic prospect of forming the next UK Government in Westminster, debating domestic matters with implications for the UK as a whole or for parts of the UK. Insofar as those matters included areas of policy devolved to the national administrations of Scotland, Wales and Northern Ireland, the moderator of the Debate had signalled those specific questions which related to the devolved policy areas (This is considered in more detail below under head e)). Accordingly, the Committee did not uphold this head of complaint.

E) The exclusion of the SNP from the Debate resulted in viewers in Scotland being misled on matters of fact and public policy.

The Committee noted that Rule 2.2 of the Code ("*Factual programmes or items or portrayals of factual matters must not mislead the audience*") was potentially relevant to this particular head of complaint given that the SNP explicitly alleged that viewers in Scotland had been "misled" (on matters of fact and public policy) by the broadcast of the Debate. However, the

² Rule 5.13 applies to local radio services (including community radio services), local digital sound programmes (including community digital sound programme services) and radio licensable content services.

Committee considered it more relevant to consider this head of complaint under Rule 5.12, and the specific requirement that "... *Views and facts must not be misrepresented*".

In the light of the Committee's conclusion under head (a), the Committee considered that the exclusion of the SNP from the Debate did not of itself result in viewers being materially misled as to matters of fact and public policy, or that such matters had been misrepresented by the SNP's exclusion from the Debate. However, the Committee noted that the supplementary submissions of the SNP had developed its argument under this head. The SNP specifically objected to examples of several (uncorrected) references by the Conservative, Labour and Liberal Democrat leaders to "this country", "in the country" or "in the United Kingdom" when answering questions put by the audience about devolved policy areas (eg. education and the healthcare).

The Committee therefore considered that it was appropriate to consider under this head whether any indications by the moderator, when introducing questions by the audience on devolved policy areas, were sufficient to make the viewing audience aware that the answers which followed from the party leaders did not necessarily apply to the United Kingdom as a whole.

In this respect, the Committee noted that the moderator had paused to point out to the viewing audience on four occasions (i.e. when introducing questions on law and order, education, health and care for the elderly) that the questions which followed concerned an area of policy which was devolved variously to the administrations in Scotland, Northern Ireland and/or Wales. For example, when introducing a question on law and order, the moderator stated "*I need to point out [this] is an area where powers are devolved to the parliament in Scotland and from this week, also the assembly in Northern Ireland...*". Further, when introducing a question on education (having clarified the date on which Scottish and Welsh leaders' debates would be broadcast), the moderator stated "[this is] *an area where again there are devolved powers in Scotland, Wales and Northern Ireland, OK?..*"

In this respect, the Committee noted the supplementary arguments of the SNP (albeit in relation to head (f) below) that the introductory explanations of the moderator before each question on devolved policy areas were "*minimal*" "*given that the discussion of these questions each lasted for several minutes and touched on areas of public policy which are not relevant or not accurate in Scotland...Viewers in Scotland would have been left with the impression that the comments of the three leaders could become a reality post-election, when it is the case that nothing that was said in relation to crime, education, health or free care for the elderly will impact on Scotland at all after 6 May. Stating that the 'powers are devolved' does not necessarily convey that the comments made will be entirely irrelevant to public policy in Scotland.*"

Having considered these specific points, the Committee did not accept that the answers from the party leaders on devolved policy areas had resulted in the Debate materially misleading the viewing audience (particularly in Scotland), or misrepresenting facts and/or devolved policy matters contrary to the due impartiality requirements of the Code.

The moderator had taken steps to warn the audience of the relevant questions on devolved policy matters before those questions were asked. In the Committee's judgement, whilst these steps were limited, they were adequate to alert the audience to the fact that the following answers from the three party leaders in these relevant sections of the Debate would not apply to every devolved nation.

The Committee considered that although it may have been *possible* for the moderator to interrupt the party leaders to clarify that their references to "this country", "in the country" or "in the United Kingdom" were not strictly clear or accurate in response to the specific questions put to them on devolved areas of policy, it was not a specific requirement of "due impartiality" that the moderator (or the broadcaster) should do so repeatedly in the context of a free-flowing live televised debate.

For these reasons, the Committee did not uphold this particular head of complaint.

F) ITV failed to make clear to viewers with any serious sufficiency the impact of Devolution on public policy.

The Committee considered the SNP's specific arguments under this head in relation to the previous head of complaint. In the Committee's view, the specific indications provided by the moderator in introducing questions on devolved policy areas were limited but adequate to comply with the due impartiality requirements of the Code, and in particular, the specific requirement not to misrepresent facts or views in Rule 5.12. In the light of those indications by the moderator, the Committee considered that the relevant due impartiality requirements of the Code did not require the moderator (or the broadcaster) to intervene further to set out an explanation of exactly how, and/or to what extent, devolution affected the relevant policy area in each of the devolved nations before the party leaders provided their answers to questions on those areas.

G) ITV selected questions which referred to Britain in devolved policy areas.

The Committee noted the SNP's specific objection under this head (in its supplementary submissions) was that "*in the case of the question from Singhu Nevell about healthcare, reference [was] made in the question to 'Britain' without further correction from the moderator.*" The Committee also considered the SNP's contention that "*the questioner could have been advised to rephrase.*"

In this respect, the Committee considered that its conclusions under heads (e) and (f) above were also applicable to this particular head of complaint, together with that under head (h) below. In the Committee's view, it was sufficient for the purposes of the due impartiality requirements of the Code that the moderator of the Debate had made clear on four separate occasions (examples of which are set out above) that the questions which followed from members of the audience in specific parts of the Debate related to policy areas which had been devolved to the administrations of Scotland, Wales and/or Northern Ireland. Given that Mrs Nevell's question was put soon after this was made clear, the Committee was satisfied

that it was reasonably clear to viewers that the question related to areas of devolved policy which differed across the specific nations of the UK (despite the loose reference to “Britain” by Mrs Nevell).

Whilst it would have been *possible* for the moderator to intervene further and ask Mrs Nevell to rephrase her question (and specifically her reference to ‘Britain’), that was not a specific requirement of due impartiality in the circumstances of the live Debate. The key consideration remained whether viewers were materially misled and/or whether facts or issues were misrepresented. In the Committee’s view, they were not.

In this respect, the Committee noted the SNP’s assertion that questions had been “vetted and pre-selected by an editorial panel”. But the Committee also noted ITV’s explanation that questions were “written and delivered by members of the public sitting in the audience”, that ITV “did not construct these questions”, and that they were “couched in the chosen language of the questioner.” In any event, this point did not cause the Committee to reconsider its conclusions above.

Accordingly, the Committee did not uphold this head of complaint.

H) ITV failed to seek clarification of facts presented on the programme to explain what nation or nations of the UK these relate to.

The Committee noted the brief supplementary submissions of the SNP under this head of complaint, but considered that they were substantially similar to those advanced under heads (e), (f) and (g) in arguing that “*On several occasions the three leaders made reference to ‘this country’ or to ‘Britain’, with no attempt from the moderator to either point out that the use of ‘Britain’ was wrong in that instance, or to ask which country or countries were being referred to by the party leader*”.

Accordingly, for the reasons set out under heads (e) to (g) above, the Committee also decided that this head of complaint should not be upheld.

I) Failed to provide adequate or appropriate coverage for the SNP in linked programmes.

In the Committee’s view, the starting point under this head was to consider specifically whether the broadcast of a Scottish debate programme on STV (and on Border TV) at 9pm on 20 April 2010 – which featured leading figures from the Conservatives, Labour, the Liberal Democrats and the SNP – was to be regarded as a “clearly linked and timely programme” for the purposes of Rule 5.12. (ITV relied on this particular debate programme as satisfying due impartiality requirements in addition to the Debate, together with its own programming on the night of the Debate and its overall election coverage).

In this respect, the Committee noted the SNP’s submission (albeit in relation to head (a)) that the “*Scottish Leader’s Debate programme is not linked, as it is something that happens at every election in Scotland, and although referenced in [the Debate] it would most likely have gone ahead irrespective of whether there was a UK-wide programme. The suggestion*

that SNP involvement in a Scotland-only political programme somehow rates as due impartiality in respect of the UK debate is simply untenable".

The Committee did not agree. In the Committee's view, the fact that leaders' debates in Scotland have been a well-established feature of election coverage in that nation did not mean that the Debate, with a comparable format, organised and televised on a UK-wide basis between major parties in the UK, could not be a "clearly linked" programme within the meaning of Rule 5.12. Further, the debate in Scotland had been specifically scheduled for a comparable prime time slot (i.e.9pm), making its scheduling comparable to that of the Debate. But the Committee also noted that the moderator of the Debate expressly signalled and promoted to the audience (on more than one occasion) that viewers could see other debates broadcast in the devolved nations. The moderator stated: "*Let me remind you that viewers in Scotland and Wales will be able to see Scottish and Welsh leaders' debates next Thursday 28th April at 9 o'clock. Those debates will involve the three parties here tonight, plus the Scottish National Party and Plaid Cymru in their respective nations...*" The moderator then subsequently corrected the date on which these broadcasts could be seen. The fact that the Debate therefore expressly cross-referred to the Scottish debate satisfied the Committee that there was clearly a sufficient link between these debate programmes.

In this respect, the Committee also had regard to the definition in Section 5 of "series of programmes taken as a whole", which is provided in relation to the special impartiality requirements in Rules 5.5 to 5.10 (which underlie those in Rules 5.11 and 5.12 on matters of major political controversy) . In the Committee's judgment, the Debate itself and the Scottish debate were clearly programmes editorially linked within an appropriate period (they were broadcast just a few days apart by ITV licensees in the election period), and linked by similar or related (general election) issues aimed at a like audience.

Accordingly, the Committee considered that it was relevant to assess the compliance of the broadcast of the Debate with the Code having regard to the broadcast of the other debate in Scotland. The Scottish debate was introduced with "*everything you hear tonight will have a direct relevant relevance to Scotland*" and the question areas, in the Committee's view, clearly overlapped with those of the Debate. In the Committee's view, when considered together, the broadcast of these debate programmes satisfied the due impartiality requirements of the Code, in particular the requirement (in Rule 5.12) that an appropriately wide range of significant views must be included and given due weight in these linked debate programmes. In this respect, the Committee also noted the SNP's submission that "The UK leader's debate was never in a position to be balanced out by a programme which was itself balanced...". In this respect, the Committee considered that the Code did not require strict "balance", equivalence, or parity of coverage as such. The key consideration was whether *due* impartiality had been observed across the Debate and the Scottish debate programmes. For the reasons set out above, the Committee considered that it had.

In any event, the Committee then went on to consider the other coverage which ITV had cited in its submissions as satisfying the due impartiality requirements. In this respect, the Committee noted that the SNP accepted that the "*linked programmes were the ITV News*

coverage at 10pm, immediately following the Debate; and the “Campaign 2010 with Jonathan Dimbleby” programme broadcast following the news”. The Committee agreed that these were “clearly linked and timely programmes” for the purposes of considering due impartiality in relation to the Debate: the ITV News at Ten was expressly trailed by the moderator at the end of the Debate (featuring comment on the Debate), and the “Campaign 2010” programme was linked by proximity of scheduling, title and subject-matter. (The Committee understood that the latter programme had also been trailed by a continuity announcement in the closing credits of the Debate.)

The Committee noted that the SNP was dissatisfied that the opportunity for comment from Alex Salmond in the ITV News at Ten was shorter than it was expecting, and also that inadequate speaking time was given to Mr Salmond in the Campaign 2010 programme (in which, the Committee noted, Mr Salmond had entered into live discussion with participants from other parties after direct questions from Mr Dimbleby). However, the Committee was nevertheless satisfied that due impartiality was preserved across the Debate, the Scottish debate, the ITV News at Ten and the Campaign 2010 programmes.

Conclusion

For the reasons set out above, the Committee therefore decided that the SNP’s complaint should not be upheld and that it follows that no remedial action is required on the part of ITV licensees.

Ofcom Election Committee

28 April 2010