

# Ofcom broadcast bulletin

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**Ofcom**  
OFFICE OF COMMUNICATIONS

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## **Introduction**

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. Ofcom has consulted on its new draft Code.

The new Code will be published this year.

The Codes and rules currently in force for broadcast content are:

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Scheduling of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin, in relation either to the application of formal sanctions by Ofcom or to legacy cases.

*Copies of the full adjudications for Upheld and Not Upheld Fairness and Privacy cases can be found on the Ofcom website: [www.ofcom.org.uk](http://www.ofcom.org.uk)*

## Standards cases

### In Breach

#### **You're on Sky Sports!**

*Sky Sports, 15 November, 22:00*

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#### **Introduction**

This is a live phone-in sports show with studio panellists.

During a discussion about the management of Tottenham Hotspurs club, one of the two panellists, Frank McLintock, referred to the changes as like "Ten Little Niggers". After the comment he and his co-panellist Rodney Marsh appeared to be stifling giggles.

Nine complainants were offended by the remark; the reaction of the two panellists after the remark; and the fact that neither Frank McLintock nor the channel made an apology during the programme.

#### **Response**

Sky pointed out that the phrase was used to refer to the Agatha Christie novel of the same name where the characters are eliminated one-by-one. It was used as an analogy for the many departures from Tottenham Football Club and the puzzling nature of the most recent management departure.

Sky and Frank McLintock recognised that the title, which included the word "nigger", was unacceptable and issued an on-air apology in the same programme a week later. The apology included Sky's continued support for eradicating racism from the sport.

#### **Decision**

The use of the term was clearly in reference to Agatha Christie's book. The word was not directed at any one person and we do not believe that there was any overall racist intent in its use. We also welcome the apology broadcast by Sky the following week.

Nevertheless, the word 'nigger' is one of the most offensive and it should only be used where there is clear editorial justification. The use of the title in this context was not justified.

Although the phrase used was the title of the original book, it was renamed '*And Then there were None*' more than fifty years ago, because it was recognised that such a word in this context was unacceptable. Subsequent films and stage plays have used the title '*Ten Little Indians*'. It was therefore unnecessary for Mr McLintock to revert back to the offensive title when making his analogy. The immediate reaction of the panellists and the lack of an instant apology compounded the offence.

The comments were made at a time when racist abuse in football was already on the news agenda and the football commentator should therefore have been more circumspect in the use of words that can cause significant offence.

Given the lack of editorial justification, the use of this word was clearly offensive and in breach of the Code.

**The broadcast was in breach of Section 1.8 of the Code (Respect for Human Dignity and Treatment of Minorities)**

**Ofcom correction**

In Ofcom's Broadcast Bulletin (No 27) published on 31 January 2005, it was stated in error that comments by Frank McLintock "were made on the day [15 November 2004] when racist abuse of English football players by members of a Spanish crowd was the top news story". In fact his comments were made before this racist chanting occurred (on 17 November 2004).

This is reflected in the revised wording above.

## Resolved

### **Mendoza**

*TalkSport, 13 October, 04:20*

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#### **Introduction**

In this live phone-in programme, Mike Mendoza received an email from a listener who urged him not to disparage the Bible and to repent and “call the name of Jesus”. Mendoza replied “Jesus Christ. Do me a favour. The Bible’s written by a man. It’s time you got that through your thick skull”.

A listener complained that this was offensive to Christians.

#### **Response**

Talksport recognised that the response seemed to be in violation of the Code. However in mitigation, it pointed out that the email read “...life will leave you unless you repent and call the name of Jesus.” The broadcaster felt this was an extreme and intimidating message and that Mendoza’s comments should be viewed in light of that provocation. It also pointed out that, in the same programme, Mendoza said that Britain remained a Christian country and defended Christian traditions and beliefs.

Talksport said that it had spoken to Mendoza and made clear to him the importance of adhering to the provisions of the Code. All presenters and producers on the station had also been emailed reminding them of the same section and the importance of compliance.

#### **Decision**

We recognise that such phone-ins are designed to be challenging and abrasive. Usually similar remarks would not have gone beyond the expectations of the likely audience. But to respond in such a way, when it was clear it would be particularly offensive to the religious sensitivities of the person it was directed at, was unnecessary. However, we welcome Talksport’s response and believe that it has taken appropriate steps to ensure such remarks are not used again in similar circumstances.

#### **Complaint resolved**

## **Galaxy 102**

*24 September, 11:00*

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### **Introduction**

A listener complained about racist lyrics in a track which he considered unsuitable for broadcast at that time of day.

### **Response**

Galaxy 102 said that it was clear that the word “nigga” had the potential to cause offence. It was not a term that its presenters used. However, there was some evidence to suggest that attitudes towards the word were changing in younger generations, some of whom had ‘reclaimed’ it. In this context, some black musicians considered that it was appropriate to use it in their work.

Given the station’s format, which includes a large proportion of r ‘n’ b music, it had given much thought to the issue of whether it was appropriate to broadcast the word and also relied on feedback from listeners. Galaxy said that it employed a number of black presenters on the network and valued their views on this subject.

The station had now reviewed the song and took the decision to remove the word.

### **Decision**

We recognise that the use of this word provokes different reactions among the audience. Undoubtedly it has the capacity to cause serious offence - especially when targeted deliberately at individuals or groups of people of African descent, with animosity and derision. However, this is not the case in this record.

In this instance, we welcome the action taken by the broadcaster and consider the matter resolved.

### **Complaint resolved**

## **News**

*ITV1, 29 October, 18:40*

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### **Introduction**

This bulletin included a story about the number of civilian deaths in the Iraq War. The item included footage filmed from an American fighter plane showing a group of people being bombed and killed. Two complainants said the images were too violent for broadcast so early in the evening when children could be watching - especially since no warning had been given about the nature of the material.

### **Response**

In its reply, ITN said that this was an important story in the continuing debate about the Iraq War, and that the cockpit video was clearly relevant. However, it agreed that - with the benefit of reflection - the images were perhaps more suitable for a later news bulletin. At the very least, a warning should have been given in the introduction to the item.

### **Decision**

The images were indistinct, and were filmed from a long-distance by the on-board camera. Nevertheless, the impact of a rocket fired from the plane was clearly seen - and the fatal outcome was not in doubt.

We welcome ITN's acknowledgement that the images were more suitable for a later news bulletin, and that a warning should have been given. We consider the matter resolved.

### **Complaints resolved**

## **X Factor**

*ITV1, 2 October, 18.00*

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### **Introduction**

*X Factor* is an entertainment and talent show. 61 viewers complained about the use of swearing and offensive language (“bloody”, “arse”, “bollocking”) and innuendo. They felt that as the programme was recorded, it could easily have been edited, given the family audience it attracts.

### **Response**

Channel Television said that when putting this edition together the producers, Thames Television, wanted to capture the mood of the auditions. It was felt that the occasional use of mild bad language would be acceptable to viewers. The word 'bloody' had not been used aggressively, minimising any potential offence. However, Channel apologised for the inclusion of “Christ Almighty” which should have been excluded from the programme; the advice to Thames Television throughout the series had been to avoid the misuse of holy names to avoid causing offence to viewers. The phrase “Simon Cowell needs to get laid” was not offensive as it would not have meant anything to younger members of the audience.

However Channel Television had decided that all subsequent episodes would be edited to be far more suitable for a family audience. In the live show, all participants were briefed to avoid any bad language, even in the post watershed results show. The broadcaster had written to all the viewers who had complained directly to it and received a number of responses from people who were pleased to hear that their comments had been taken on board.

### **Decision**

The swearwords used were not strong. However we agree that the cumulative effect of the language was unsuitable for this show, which was aimed at a wide ranging family audience - 13% of viewers were aged under 16. We welcome the action taken by Channel Television and consider the matter resolved.

### **Complaints resolved**

## **Crime Fighters**

*Men and Motors, 23 November, 13:50*

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### **Introduction**

This was an early afternoon programme following the work of the British Transport Police at Newcastle railway station. One viewer complained about swearing when a member of the public being questioned by a police officer was heard to say that “he couldn’t give a fuck”.

### **Response**

The broadcaster acknowledged that, although a number of edits had been made to comply with Code requirements, this had unfortunately been missed. It apologised for any offence caused. The programme would be re-edited for any possible repeat transmission.

### **Decision**

We agree that the language was unsuitable for transmission at that time. However we welcome the broadcaster’s action and consider that the matter had been resolved.

### **Complaint resolved**

## Not in Breach

### Coronation Street

ITV 1, 20 September, 19.30 and 20.30, 22 September, 19.30, 25 September, 13.15

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#### Introduction

In these episodes, the fractured relationship between Sarah Platt and Todd Grimshaw reached a head, when Todd found Sarah in bed with his half-brother, Jason. Ten viewers were concerned about the sexual content in the episodes on 20 September. The majority of viewers (30) were concerned by Todd calling his brother a “bastard” during a heated row on 22 September. Some also believed that Todd’s lashing out at the couple was too violent for showing before the 9pm watershed. One viewer was concerned at the portrayal of Sarah and Jason’s relationship in the omnibus repeat on 25 September.

#### Response

ITV said that the events marked a watershed for the character Todd Grimshaw. Todd’s relationship with his fiancée Sarah had broken down when he told her about his sexuality although he naively hoped they could establish an amicable relationship. Sarah rejected every approach and Todd appealed to his brother to help rebuild the relationship.

Finding Jason in bed with Sarah shattered his illusions about both of them. Todd lost control, slapping Sarah and fighting Jason. Although it was essential to demonstrate this loss of control, ITV said that it was careful to avoid gratuitous violence and not exceed viewers’ expectations for a drama at this time of the evening.

ITV explained that it carefully considered any use of offensive language, whilst trying to maintain a degree of realism. Words such as “bitch”, “slut” and “tart” may be used in angry exchanges, but this was well below the type of language used in reality in similar situations. The broadcaster believed that most age groups would not be offended by this level of usage. Stronger language was used very rarely and, then, only when it was felt appropriate. Todd’s use of the word “bastard” reflected the extreme emotion of the situation. In ITV’s view, to use less strong language in this extreme circumstance would undermine the reality of the drama and betray the expectations of the audience. However, the broadcaster recognised that the acceptability of this term had shifted over the years and, compared to 20 years ago, this term was now only used in the most emotionally extreme moments. This was the first time this word had been used in two years in *Coronation Street* and it was not used in the daytime omnibus.

ITV pointed out that relationship issues had been key to *Coronation Street* for much of its life. In this case, the scenes between Jason and Sarah were necessarily passionate, fuelled by a combination of alcohol, grief and revenge. However, the scenes did not feature any nudity or sexually explicit behaviour and were intercut with scenes of Todd, nearby, raising the possibility of the couple’s discovery. The outcome was that the couple felt deeply ashamed. Sarah upset most of her family and friends, particularly her best friend.

Overall, ITV believed that these episodes remained within the general audience's expectations. *Coronation Street* was not specifically aimed at young children. It is a contemporary drama with contemporary realistic themes, but ITV said that it ensured that themes were carefully and appropriately handled for its pre watershed slot.

### **Decision**

We believe that regular viewers would have been aware of the situation between Sarah and Todd and would not be surprised at the catastrophic repercussions of Jason's involvement with Sarah. The build up to the sexual relationship between Jason and Sarah was passionate, but did not go beyond kissing and limited undressing. The focus was on the dramatic tension of Todd being nearby and discovering Jason and Sarah together. Given this storyline, we believe that most viewers would find this relatively inexplicit level of sexual content acceptable.

Given the situation, Todd's outburst was understandable. The violence was limited, with other characters quickly breaking the fight up and expressing their surprise and disapproval at his reaction. We acknowledge viewers' concerns about the use of offensive language, especially when used in an aggressive manner when children are watching in significant numbers. We recognise that ITV has responded to viewers' concerns about the word "bastard" by limiting its use to the very occasional.

However, we have been concerned in recent months about the increased use of offensive language more generally. Although viewers consider much of this language to be at the milder end of the scale, the increasing frequency of its use has been discussed with the broadcaster.

### **These programmes were not in breach of the Code**

## Fairness and Privacy cases

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

## Summary of Adjudication

### Complaint on behalf of Provident Financial plc and Mr Robin Oakley

*GMTV, GMTV (ITV1) 16 and 23 July 2003*

Ofcom has upheld part of a complaint on behalf of Provident Financial plc that two editions of *GMTV* were unfair to it. Ofcom has also upheld a privacy complaint made on behalf of Mr Robin Oakley. Mr Oakley was an employee of Provident Financial and was secretly filmed discussing a loan with a potential client.

Provident Financial was featured in two programmes about high interest rates charged by some loan companies.

Ofcom found that by using secret filming the programmes gave the impression that the company was involved in underhand methods. This was unfair. The programme of 23 July last year unfairly implied Provident Financial was a "loan shark". Provident Financial should therefore have been given an opportunity to respond to this and other criticisms in the programme.

However the programme of 16 July did not give a misleading impression of the company in the ways Provident Financial said and there was an adequate opportunity to respond to the criticisms made in this programme.

By secretly recording the Provident Financial employee, the broadcaster infringed his privacy in both the making and broadcast of the programme. There was no public interest in the footage that justified this. Mr Oakley was simply going about his business and the filming was not necessary to the credibility to the story.

### Upheld in Part

### Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
Mr Howard Harding	<i>First Edition – Cancer Cures: Who Can You Trust?</i>	Carlton Television 3 February 2004	Unfair treatment and unwarranted infringement of privacy
Ms Judy Herring	<i>The Real Bad Girls</i>	ITV1 25 July 2004	Unfair treatment and unwarranted infringement of privacy

Mr John Lyons	<i>Dispatches: Third Class Post</i>	Channel 4 29 April 2004	Unfairness and unwarranted infringement of privacy
Dr Rachhpal Singh Randhawa	<i>Various Programmes</i>	Panjab Radio 11 & 21 January 2003 & 8 May 2003	Unfair treatment

## Other programmes not in breach/out of remit

22 December – 11 January

Agatha Christie's Marple	19/12/2004	ITV1	Sexual Portrayal	1
BBC London 94.9	21/11/2004	BBC London	Offence	1
BBC Midlands Today	21/12/2004	BBC1	Offence	1
BBC Radio 4	22/12/2004	BBC Radio 4	Offence	1
Best Friends	17/12/2004	ITV1	Sexual Portrayal	1
Best Friends	30/12/2004	ITV1	Sexual Portrayal	1
British Comedy Awards	22/12/2004	ITV1	Offence	1
Capital FM Breakfast	29/11/2004	Capital FM	Offence	1
Channel 4 News	19/12/2002	Channel 4	Impartiality	1
Charmed	-	Five	Scheduling	1
Coronation Street	20/12/2004	ITV1	Offence	1
Dream 107.7	20/12/2004	Dream 107	Language	1
Dumber and Dumber	22/12/2004	Five	Language	1
Five Live	03/09/2004	BBC Radio 5	Offence	1
Granada Plus	29/12/2004	Granada Plus	Other	1
Grumpy Old Men	10/09/2004	BBC2	Offence	1
Have I Got News For You	26/11/2004	BBC1	Religious Offence	1
I'm a Celebrity...3	29/11/2004	ITV2	Offence	2
In the Know	12/06/2004	BBC1	Language	1
ITV News	17/12/2004	ITV1	Offence	1
ITV News	18/12/2004	ITV1	Offence	1
James Stannage	08/12/2004	Key 103	Offence	1
Jonathan Ross	18/12/2004	BBC1	Religious Offence	1
Kismet Asian Talk Radio	-	Sunrise Radio	Offence	1
Kiss 100FM	07/10/2004	Kiss 100FM	Language	1
Men and Motors	10/11/2004	Granada Men & Motors	Offence	1
Metro Radio	23/12/2004	Metro Radio	Offence	1
Ministry of Mayhem	18/12/2004	ITV1	Sexual Portrayal	1
My Dad's the Prime Minister	17/12/2004	BBC1	Language	1
My Parents Are Aliens	20/12/2004	ITV1	Offence	1
Pregnancy Week	01/09/2004	Discovery Health	Offence	1
Pregnancy Week	06/09/2004	Discovery Health	Offence	5
Pregnancy Week	13/09/2004	Discovery Health	Offence	1
Pregnancy Week	14/10/2004	Discovery Health	Offence	1
Pregnancy Week	21/10/2004	Discovery Health	Offence	1
Pregnancy Week	05/10/2004	Discovery Health	Offence	1
Pregnancy Week	01/10/2004	Discovery Health	Offence	2
Pregnancy Week	11/10/2004	Discovery Health	Offence	2
Pregnancy Week	21/10/2004	Discovery Health	Offence	1
Pregnancy Week	30/11/2004	Discovery Health	Offence	1
Quiz TV	16/12/2004	Discovery Health	Offence	1
Radio 2	20/11/2004	BBC Radio 2	Language	1

Richard and Judy	03/12/2004	Channel 4	Language	1
Richard and Judy	14/12/2004	Channel 4	Offence	1
Wonderful Network	30/12/2004	Wonderful Network	Religious Offence	1
Richard and Judy	21/12/2004	Channel 4	Religious Offence	1
Spooks	13/12/2004	BBC1	Language	1
Talksport	12/12/2004	Talksport	Offence	2
Talksport	23/08/2004	Talksport	Offence	1
Talksport	15/12/2004	Talksport	Offence	1
Teachers	02/11/2004	Channel 4	Offence	2
The Archers	16/12/2004	BBC Radio 4	Offence	1
The Bay	24/10/2004	The Bay	Offence	1
The Bill	08/12/2004	ITV1	Violence	1
The Bill	22/12/2004	ITV1	Sexual Portrayal	2
The Bill	20/12/2004	ITV1	Sexual Portrayal	1
The Chart	18/12/2004	Five	Scheduling	1
The Great British Asian Invasion	07/10/2004	Channel 4	Offence	2
The Great British Asian Invasion	08/10/2004	Channel 4	Offence	1
The John Pagan Rock Show	06/11/2004	Halton FM	Language	1
The Match	04/10/2004	Sky One	Language	1
The Simpsons	15/12/2004	Channel 4	Violence	1
TMF - The Music Factory	01/12/2004	TMF	Language	1
Trouble TV	08/12/2004	Trouble TV	Offence	1
VH1	11/12/2004	VH1	Sexual Portrayal	1
What Ron Said	13/12/2004	BBC1	Offence	4
Who Wrote the Bible?	25/12/2004	Channel 4	Religious Offence	2