
Ofcom Bulletin for complaints about BBC online material

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Introduction

This Bulletin reports on complaints made to Ofcom about the BBC's online material. It gives the outcome of Ofcom's consideration on each complaint received and where relevant, provides Ofcom's opinion on whether the BBC observed the relevant standards for its online material.

Under the BBC's Charter and Agreement, set by Government and Parliament, the BBC is responsible for the editorial standards of its online material. Ofcom has a responsibility to consider and give an opinion on whether the BBC has observed relevant editorial guidelines in its online material¹. This came into effect with the Digital Economy Act on 27 April 2017.

Online material means content on the BBC's website and apps. This includes written text, images, video and sound content. It does not extend to social media, Bitesize, BBC material on third party websites and World Service content, among other things.

Ofcom's published arrangements and procedures for handling complaints about BBC online material [can be found on the Ofcom website](#). These documents contain more information about the types of complaints we will consider and the process we will normally follow when handling complaints.

Complaints about BBC online material must follow the 'BBC First' approach, where they are made to the BBC in the first instance. If a complainant is not satisfied with the BBC's final response to a complaint about its online material, they may seek an independent opinion on it from Ofcom.

Unlike our role regulating the standards of BBC broadcasting and on demand programme services (such as the BBC iPlayer), Ofcom has no enforcement powers for BBC online material.

¹ This does not include content on BBC on demand programme services (such as the BBC iPlayer), which must comply with relevant rules in Ofcom's [Broadcasting Code](#).

Opinion

Online material: British Neo-Nazis suggest Prince Harry should be shot, BBC News website, 5 December 2018

This is an Opinion given by Ofcom to the BBC on whether it has observed relevant Editorial Guidelines on the content of an online article.

In this case, taking the article as a whole, for the reasons set out below, in Ofcom's Opinion the BBC observed the relevant provisions of Sections 5 and 8 of the BBC's Editorial Guidelines.

Background

Ofcom's role in BBC online material is different to the role we have in BBC broadcasting standards: under the [BBC Agreement](#), Ofcom is not required to resolve complaints about standards in the content of BBC online material and Ofcom has no related enforcement powers. Instead, the BBC Agreement¹ provides that Ofcom must consider complaints about online material in the UK Public Services and, where appropriate, give an opinion, including such recommendations as it considers appropriate, on whether the BBC has observed the relevant editorial guidelines (which reflect the standards in the Ofcom Broadcasting Code). In accordance with the BBC Agreement, Ofcom has entered into an arrangement ("the Online Arrangement")² with the BBC which outlines the respective roles of the BBC and Ofcom in handling complaints about BBC online material.

The Online Arrangement³ provides that Ofcom will consider whether a complaint about the editorial standards of BBC online material raises potentially substantive issues under the relevant editorial guidelines which warrant consideration by Ofcom. Ofcom will do so by reference to the gravity and/or extent of the matter complained of and whether it considers the BBC reached an appropriate final view on the complaint⁴.

Complaint summary

Ofcom received a complaint about an online article ("the Article") entitled: "*British Neo-Nazis suggest Prince Harry should be shot*", published on the BBC News website on 5 December 2018.

The Article reported on the findings of a BBC investigation which identified two men with alleged links to the British neo-Nazi group Sonnenkrieg Division. On 6 December 2018, the day after the publication of the Article, both men were arrested. One subsequently pleaded guilty to terrorism-related offences.

¹ Clause 60(1) of the BBC Agreement.

² [The BBC and Ofcom Online Material Arrangement](#).

³ Clause 3(2) of the Online Arrangement.

⁴ If Ofcom accepts that a complaint raises potentially substantive issues under the relevant BBC editorial guidelines it will consider the complaint in accordance with Ofcom's published [Procedures for handling complaints relating to BBC online material](#).

The Article described some of the actions of the Sonnenkrieg Division group that had been uncovered in the BBC's investigation. In addition, approximately half way down the body of the text the Article included an example of one of the propaganda images ("the Image") produced by the group which it had posted on social media. This was a stylised collage image that depicted His Royal Highness, The Duke of Sussex with a gun pointed at his head. The Image also included a blood splatter, a swastika, and the text "see ya later race traitor!". The Image was accompanied in the Article by the following text description: "one image suggests that Prince Harry should be shot for marrying someone of mixed race and exclaims 'see ya later race traitor!'".

On 6 December 2018, the BBC updated the article to include a warning to readers that "one of their [Sonnenkrieg Division's] images is displayed below". The size of the Image was also reduced. On 7 December 2018, the Image was removed from the Article. The BBC said this was because the public interest in the Article had reduced and the inclusion of the Image was no longer justified.

The Complainant submitted that the publication of the Image in the Article on 5 December fell "below the generally accepted standards as to harmful and offensive material" and that there was insufficient editorial justification to warrant the publishing of the Image given that it was created by the group to incite criminal action.

Ofcom considered that the complaint raised potentially substantive issues under the relevant editorial guidelines which warranted consideration by Ofcom. In reaching this Opinion, we took into account the following material:

- the online material;
- the complaint;
- the BBC's final responses to the complainant; and
- the complainant's and the BBC's submissions to Ofcom on the online material.

BBC's Editorial Guidelines

The relevant editorial guidelines are defined in the Online Arrangement as those of the BBC's Editorial Guidelines which reflect the standards set in Ofcom's Broadcasting Code. The BBC Editorial Guidelines set out the principles and best practice for the BBC's editorial staff; some are mandatory and others advisory.

In considering this complaint, we had regard to Sections 5 and 8 of the BBC Editorial Guidelines⁵. These sections are concerned with harm and offence (section 5) and reporting crime and anti-social behaviour (section 8). In particular:

"5.2.1 The BBC must apply generally accepted standards so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material."

"8.2.1 [The BBC] must ensure that material likely to encourage or incite the commission of crime, or lead to disorder, is not included on our services. However, this is not intended to restrict the broadcasting of any content where a clear public interest can be demonstrated."

⁵ The BBC published revised Editorial Guidelines on 8 July 2019. In this Opinion, we have considered whether the BBC took appropriate account of the Editorial Guidelines that were in place on the date the Article was published (5 December 2018).

Ofcom's Opinion

Offence

Ofcom first considered whether the article had the potential to cause offence (we discuss any issues relating to harm in our consideration of principle 8.2.1 below). The Image contained graphic imagery and an explicit threat of violence against HRH the Duke of Sussex made on the basis of racial hatred against his wife, HRH the Duchess of Sussex. In addition, it was made clear by the BBC to readers in the Article that the Image had been produced by a neo-Nazi group for the specific purpose of spreading its racist ideology. In our view, the Image therefore had clear potential to cause considerable offence.

In its submissions to Ofcom, the BBC emphasised that the guidelines on harm and offence do not place a bar on the inclusion of potentially harmful, offensive or challenging material in BBC output. Rather, the BBC said that journalists are required to demonstrate a clear editorial purpose, taking into account generally accepted standards. As Ofcom was of the view that the Image had the potential to cause considerable offence, there needed to be a very clear editorial purpose and significant and careful context to justify its inclusion in the Article.

As described above, the Article was published following a BBC investigation and exposed the actions of a UK-based neo-Nazi group. The Article also revealed the identity of two men with alleged links to the group. The day following the publication of the Article, they were arrested and one has subsequently pleaded guilty to terrorism-related offences. The Article condemned what it made clear were the violent and illegal nature of the group's activities and described a range of other extreme images it had produced. It also included a response from the mother of a boy allegedly murdered by a group linked to Sonnenkrieg Division who said that "*the only way to eradicate [the group] is to figure out where it is and root it out*". We therefore considered that readers would have understood that the BBC's investigation was likely to have contributed to frustrating the group's violent and racist intentions, both by identifying alleged members and by exposing the extreme nature of their activities.

We considered there was a significant public interest in exposing the group's shocking actions to readers and raising public awareness of its extremist views. In our view, the inclusion of the Image – which the Article made clear was one of several extreme images produced by the group – provided additional context as a specific example of the type of illegal material the group was producing. Further, it powerfully expressed the extreme racist views shared by members of the group and their violent intent, and highlighted the urgent need for legal action to be taken against them. We agreed with the BBC's assessment that there was a public interest in conveying clearly and impactfully the offensive nature of the group's messages.

In addition, the Image was not photo-realistic but was a stylised collage of various visual elements. In Ofcom's view, while it had clear potential to cause considerable offence, this would have been likely to be slightly less than would have been the case with a less stylised image.

We also took into account that the day after the publication of the article, the BBC updated the article to include a warning to readers that "*one of their [Sonnenkrieg Division's] images is displayed below*". The size of the Image was also reduced.

On 7 December 2018, the article was updated again and the Image was removed. The BBC said this was because the public interest had reduced and the inclusion of the Image was no longer justified.

Taking all these factors into account, we considered that the BBC had applied generally accepted standards and complied with the relevant BBC Editorial Guidelines relating to harm and offence.

Incitement to Crime

Principle 8.2.1 states that the BBC must ensure that material likely to encourage or incite the commission of crime is not included in BBC services. However, this Principle makes clear that this prohibition is not intended to restrict the BBC from broadcasting any content where a clear public interest can be demonstrated.

In Ofcom's view, the publication of examples of racist propaganda requires particularly careful consideration. In particular, the BBC must be confident the inclusion of the material is serving a clear editorial purpose that justifies any potential risk associated with further dissemination of the material in question.

The Image was an example of racist propaganda that had been created by the neo-Nazi group with the clear intention of spreading violence and hatred. However, we also took account of the context in which the Image was included. The Article informed the public about the group's activities and their illegal nature, and condemned those activities. In addition, by identifying two men allegedly involved in the group, the Article encouraged action to be taken against them (they were arrested shortly afterwards with one pleading guilty to terrorism-related offences) and more broadly against similar groups. Further the Image itself illustrated the type of illegal material the neo-Nazi group was producing. We considered the complainant's argument that the BBC's publication of the Image constituted a furtherance of the neo-Nazi group's aims. We understand that the Image was initially circulated by members of the group on social media accounts and that following the BBC reporting the outcome of its investigation, a number of newspapers also published the Image. We agreed with the BBC that the vast majority of the people who saw the Image would have been appalled by it and it did not seem likely that people predisposed to sympathise with the group's sentiments would have taken any encouragement from publication of the Image by the BBC in this clearly condemnatory context, noting that it was already available on social media. In our view, the Image powerfully expressed the group's shocking racist views and violent intent and highlighted the case for legal action to be taken against them.

We considered that the initial publication of this Image in this specific context had a clear public interest. We recognised that it was a finely balanced editorial decision for the BBC on how to illustrate the neo-Nazi group's activities. We went on to consider the likelihood that the inclusion of the Image in the Article could have encouraged or incited the commission of crime. In our view, in the specific context of an article which exposed, raised awareness of, and clearly condemned the group's actions, the inclusion of the Image was not likely to encourage or incite the commission of crime.

We also recognised that the BBC was alive to any changes over time of the degree to which the publication of the Image could be editorially justified. As set out above, two days after the publication of the Article, and following the arrests of the two men identified within it, the BBC concluded that the public interest in the story had reduced and no longer warranted the continued publication of the Image. Therefore, the BBC decided to amend the article and remove the Image.

Conclusion

As set out above, Ofcom's role in relation to online material is to give its Opinion on whether the BBC has observed the relevant editorial guidelines, including making such recommendations as Ofcom considers appropriate.

When broadcasting or publishing examples of racist propaganda in content with a clear public interest, there are nevertheless limits on the type of material which can be included, taking into account generally accepted standards in particular. The BBC demonstrated in this case that it made a finely balanced decision on the necessary editorial justification to include the Image and removed it from the Article two days after publication when it considered that the public interest in the story had reduced.

In this case, Ofcom's Opinion is that the BBC observed the relevant provisions of the BBC Editorial Guidelines.