

Ofcom Broadcast Bulletin

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Introduction

Ofcom's Broadcasting Code took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

From time to time adjudications relating to advertising content may appear in the Bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

Standards cases

In Breach

Naughty Nurse

Turn On TV, 14 September 2006, 13:00-16:00 and 15 September 2006, 15:40

Introduction

Turn On TV is an unencrypted channel, situated in the adult section of the Sky EPG, broadcasting programming based on premium rate adult chat services.

In June and September 2006, Ofcom wrote to broadcasters who provide such services due to serious concerns about their compliance with the Broadcasting Code (“the Code”). In particular, we were concerned about the degree of sexual content on these channels (both before and after the 21:00 watershed) and the separation of advertising from programme content. Following these letters, we monitored the output of the services.

On 14 September 2006, we monitored a programme entitled *Naughty Nurse* on Turn On TV between 13:00 and 16:00. This programme featured female presenters, dressed provocatively as nurses, encouraging viewers to call them. Investigation of this telephone service by Ofcom revealed that callers were given the option of connecting to an on-screen or off-screen ‘nurse’. Connection to an off-screen ‘nurse’ resulted in an explicit live conversation of a sexual nature.

During monitoring of *Naughty Nurse* on 15 September 2006, one of the presenters could be seen engaged in a call. While the presenter’s microphone was not on, she could be overheard saying “*Oooh, baby fuck me*” and moaning in a sexual manner.

We asked the broadcaster to comment on the suitability of the content for broadcast before the watershed on an unencrypted channel in respect of the following Code Rules:

- 1.2 (reasonable steps to protect the under eighteens);
- 1.3 (appropriate scheduling to protect children);
- 1.17 (sexual behaviour should be appropriately limited);
- 2.1 (generally accepted standards); and,
- 2.3 (offensive material must be justified by the context).

Response

Turn On TV responded stating that *Naughty Nurse* was not an adult show but was designed to be a “fun, flirtatious programme, which viewers could call in and chat to the nurse”. Viewers heard the initial section of most calls and, where appropriate, the presenter gave a précis of the conversation that had taken place. The broadcaster said that it did not allow staff to solicit and/or encourage adult type conversations during daytime programming and stressed that the telephone number shown on screen was not “in anyway an adult sex line”. The broadcaster acknowledged however that a number of telephone calls of an adult sexual nature had taken place but these were isolated and unconnected incidents.

The first incident (14 September 2006) related to the provision of calls to “off-screen babes”. These calls were handled by a service provider, who was meant to be providing non-adult chat via their call centre. Turn On TV said that it first became aware that there was a problem with the provision of ‘off-screen’ calls as a result of monitoring by the premium rate service regulator, ICSTIS, and had subsequently terminated its relationship with the service provider in question.

The call overheard during the programme on 15 September 2006 originated from the broadcaster’s website, which promoted an adult premium rate number. The broadcaster believed that a technical error had occurred and the sound levels on the presenter’s lapel mike were not muted completely.

Turn On TV said it took compliance very seriously and when it was notified of the complaints, it changed the name of the programme on the basis that *Naughty Nurse* could give an incorrect impression about the nature of the service promoted.

The broadcaster said it had also instigated the following measures in October and November 2006 to strengthen its compliance procedures:

- drafted an internal compliance guide (a copy of which it provided to Ofcom);
- trained all staff;
- installed new equipment to ensure all on screen calls are monitored live;
- handled and managed all calls generated by its programmes – all calls were now routed only to the broadcaster’s own fully trained call handlers;
- no longer allowed calls promoted on other media to be routed to on-screen presenters; and
- recorded and monitored calls regularly to ensure standards are maintained.

In addition, the broadcaster said that all new formats and amendments to existing programming would be discussed with the broadcaster’s compliance officer prior to being aired.

Decision

It is clear from the content of the call made by a member of Ofcom staff to the number broadcast on 14 September 2006 that the premium rate service promoted during daytime programming was for an adult sexual service.

Additionally, the actions and language used by the presenter on 15 September 2007 were unacceptable for broadcast during daytime programming and also suggested that the number promoted was for an adult sexual service.

We therefore consider that the programmes breached Rules 1.2, 1.3, 1.17, 2.1 and 2.3 of the Code on the following grounds:

- the clothing and posing of the presenter was overtly sexually provocative and the sexual behaviour was therefore not appropriately limited;
- the broadcaster had failed to take all reasonable steps to protect children in that this content (in terms of both the appearance and actions of the presenters and the promotion of adult services) was inappropriately scheduled pre-watershed; and
- the language used by the presenter was unacceptable and offensive for the time of broadcast and not justified by the context.

Ofcom took Turn On TV's failure to ensure that both the content of its programmes and the nature of the services it promoted were suitable for broadcast before the watershed very seriously. We were particularly concerned that these breaches occurred following our letters of June and September 2006 with their very clear warnings. In view of the gravity of the issue, Ofcom commenced the formal process of the consideration of a statutory sanction.

We also continued to monitor the channel's daytime output to ensure that the broadcaster's compliance arrangements had taken effect. This demonstrated that the broadcaster had improved compliance and the output monitored did not feature any sexual material before the watershed. Further, random monitoring of the PRS number promoted resulted in connection to the on-screen presenter and discussion that contained no overtly sexual content. In view of the extensive steps taken by the broadcaster to improve compliance on the channel, the assurances it has given, and our current assessment of the channel's compliance, we decided on balance not to pursue the consideration of a sanction in this case.

However, we put the Licensee on notice that should there be any future breaches of the Code of a similar nature, Ofcom will not hesitate to consider the imposition of statutory sanctions (which may include a fine and/or revocation of the licence). Such considerations would take into account a licensee's compliance record.

Breach of Rules 1.2, 1.3, 1.17, 2.1 and 2.3

World in Focus and R Mornings

Revelation TV, various dates and times of transmission

Introduction

Revelation TV is a religious channel that often features live phone-in programmes and discussions which from time to time deal with controversial and topical issues. Ofcom received seven complaints from viewers who alleged that some presenters and contributors during some editions of the programmes *World in Focus* and *R Mornings* used offensive language when discussing homosexuals, homosexual behaviour and immigrants.

In an edition of the programme *World in Focus* a panel of three contributors criticised the newly implemented Equality Act and, in particular, the associated Sexual Orientation Regulations, which they alleged would force schools to teach children about homosexuality as part of the national curriculum. Three viewers complained that the discussion was wholly against the new Regulations, with no balance or opposing points of view were given, and that some of the remarks were disparaging and offensive to the gay community.

Four other viewers complained of offensive comments made by Howard Conder, the owner and presenter of Revelation TV, and some of his guests concerning homosexuality and also immigrants in various other programmes.

Ofcom asked Revelation TV to comment with regard to the following Rules in the Broadcasting Code ("the Code"): 2.3 (generally accepted standards) and 5.5 (due impartiality on matters of political or industrial controversy and matters relating to current public policy).

Response

Revelation TV said that the programmes complained of were broadcast live and, as a consequence, there were no "time-delays" on them, which would have allowed for editing of any offensive comments made. It aimed to provide due impartiality by reading out comments from emails sent by members of the public and by including comments from callers put through to the studio.

Revelation TV also pointed out that the programmes complained of were one hour long. In its view, it was unfair to pick a sentence from a programme of that length (i.e. what were alleged to be homophobic comments) when the comments themselves were not indicative of a programme's overall content.

However, Revelation TV acknowledged that there were a number of areas where it had not fully understood how to implement the Code. As a result, following Ofcom's intervention, it immediately applied a number of measures that would enable it to adhere to Ofcom regulations correctly in the future, for example:

- briefing all presenters thoroughly on the Code's requirements;
- pro-actively encouraging the participation of other groups or interested parties with a different point of view in the station's programmes;
- ensuring where appropriate that a range of opinions would be reflected when discussing controversial topics;

- ensuring that controversial views which are expressed in their programmes will be included in a way that is compliant with the Rules on due impartiality;
- creating a compliance manual for all staff and attending future Ofcom compliance workshops; and
- training call-centre staff to ensure that immediate remedial action is taken during live phone-ins as and when required.

Decision

Ofcom understands that the issue of homosexuality is a contentious one both within and outside religious communities, and that a number of opposing views are held. The expression of such sincerely-held and controversial views may give rise to the potential for offence.

It is therefore important that, where there is the potential for offence, broadcasters must comply with Rule 2.3 of the Code which states that: "...in applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material may include but is not limited to, offensive language...discriminatory language...on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation".

Revelation TV is free to broadcast the views of its presenters and contributors on issues concerning homosexuality, but it must ensure that, where such views are expressed in a way which may cause offence, they are justified by the context. Revelation TV now understands fully these obligations under the Code.

Ofcom acknowledges the right of Revelation TV to exercise freedom of expression. This right is however subject to the restrictions set out in Ofcom's Broadcasting Code. For example, where a matter of political controversy or a matter of current public policy is being debated, the broadcasters must ensure that due impartiality is maintained in accordance with Rule 5.5.

The issue of the treatment of homosexuality (in relation to the Equality Act and the Sexual Orientation Regulations) was a matter of political controversy and/or matter relating to current public policy at the time it was discussed on Revelation TV. Due impartiality was therefore required. The discussions of the topic on the channel however did not include any representation at all of alternative views. The content therefore breached Rule 5.5.

We note that Revelation TV has acknowledged its failures of compliance and welcome the various measures it has implemented to ensure no recurrence; in particular ensuring alternative views are represented on air when matters of political or industrial controversy and matters relating to current public policy are dealt with. Ofcom has sampled the channel's programming since these measures were introduced and there has been no evidence of any further potential breaches of the Code. However, there was a breach recorded against Revelation TV, regarding similar compliance failures (Broadcast Bulletin 28, 28 June 2004). The broadcaster is therefore put on notice that any further similar breaches of the Code are likely to result in Ofcom considering the imposition of a statutory sanction.

Breach of Rules 2.3 and 5.5

Insider

TV3, 14 September 2006, 22:00

Introduction

TV3 is a Swedish language channel operated by Viasat Broadcasting UK Ltd. *Insider* is a well known current affairs programme on the channel that reports on topical issues of interest to a Swedish audience.

A viewer complained that this edition of the programme was aimed against the then current government by trying to influence the Swedish general elections held three days later. As a result of the election the minority Social Democratic-led government was defeated by an alliance of centre right parties headed by the Moderate Party.

This programme investigated and debated the level of taxes and benefits in Sweden and transparency about, and accountability for, how the money raised by taxes is spent. The programme included an abridged version of a documentary by the filmmaker, Martin Borgs, on this subject entitled *One Thousand Two Hundred Billion*. This was followed by a studio discussion between Mr Borgs and the Swedish commentator, Göran Hägg.

After viewing the programme Ofcom asked Viasat to comment in relation to the Rules of the Broadcasting Code ("the Code") including Rule 5.12 (due impartiality on major matters of political controversy) and Rule 6.1 (due impartiality in coverage of elections).

Response

Rule 5.12 (significant views to be included when dealing with 'major matters')

The broadcaster pointed out that this *Insider* programme was part of a series of three programmes broadcast over the three-week period immediately prior to the Swedish general election. The other two programmes were *Småpartier* ('small parties on their way up') and *Sverige demokraterna* which was an examination of the rise of the right wing Swedish Democrat party. Referring to the edition of 14 September 2006, Viasat pointed out that various politicians and members of the public were given an invitation to comment on matters featured in the programme. The channel argued alternative viewpoints were therefore adequately represented, saying that these were particularly evident from the material which featured politicians declining the chance to comment after being phoned and given the opportunity to respond.

The channel also pointed to the studio discussion in which Göran Hägg, who the channel described as a prominent Swedish writer and a well known sympathiser of the then governing Social Democrats, gave his opinion on the issues addressed in the programme. Viasat was confident that, in light of the fact that so many parties were asked to participate, all of these issues were dealt with impartially as required by the Code.

Rule 6.1 (elections to be covered with due impartiality)

The channel said that the *Insider* programme of 14 September 2006 focused on the Swedish tax system and not *per se* on the Social Democratic party or supporters of the government. Throughout the programme it was clear that it was the taxes paid by

Swedish citizens that were the subject of the programme and specifically the issues regarding the allocation and spending of money raised by taxation.

As regards providing a wide range of views, the broadcaster pointed to a sequence in the *Insider* programme where the Moderate Party (the then main opposition party in Sweden) was questioned; and the studio discussion in which Göran Hägg was asked to give his alternative viewpoint. The broadcaster also pointed out that because the programme was aired three days before the Swedish elections, all the members and representatives of the Social Democrat party who were asked to participate in the programme said they were unable to do so because of the forthcoming elections.

Decision

Rule 5.12

The taxation and spending policies of a government – especially when discussed in the week before a general election – are clearly ‘major matters’ of political or industrial controversy under Rule 5.12. In introducing the abridged version of the *One Thousand Two Hundred Billion* documentary by Martin Borgs, the presenter of the *Insider* programme himself stated: “*It’s controversial, of course, and a lot of it is related to the coming general election*”. The broadcaster was therefore required, under the Code, to include an appropriately wide range of significant views and give them due weight either in the programme on 14 September 2006 or in clearly linked and timely programmes. It was clear to Ofcom from the *Insider* programme as transmitted that the broadcaster had not included a wide range of views.

The programme of 14 September 2006 dealt in a critical way with the taxation and spending policies of the then government. Ofcom notes that the government was invited to put its position on the policies discussed in the programme. However, to issue such an invitation, in itself, is not sufficient to satisfy the due impartiality requirements of Rule 5.12. The Rule demands that a wide range of significant views be included in the programme and given due weight. These significant views must be included in the programme or in a clearly linked programme in an appropriate way.

The abridged version of the *One Thousand Two Hundred Billion* documentary that was included in this edition of *Insider* either named, or included very brief clips of filmed interviews with, 18 politicians. Of these 18, 16 were politicians who were members of the then Swedish cabinet, members of the governing Social Democratic party or members of parties who were politically allied to the then government. Where a politician was simply named, it was not in the context of summarising his views on the taxation and spending policy of the then government. There were also brief clips of interviews with politicians in, or linked to, the government e.g. Jörgen Andersson (former director-general of the Social Democrats), and Johan Öhrn, political secretary of the Social Democrats. Again, however, the filmed comments did not address the taxation and spending policies of the government. For example, in Mr Andersson’s case, in the clip used he was simply refusing to comment on his employment position; and the clips of Johan Öhrn were passing on information to Martin Borgs about who he should speak to concerning certain allegations. To simply name a politician or make a brief reference to them did not therefore ensure that a wide range of significant views on the taxation, benefits and spending policies of the then government were included or that such views were given due weight in the *Insider* programme. Nor were the views of the then government on this major matter of political controversy summarised elsewhere, for example in commentary. The due impartiality requirement of Rule 5.12 was therefore not satisfied.

The broadcaster argued that the comments of Göran Hägg during the studio discussion which followed the abridged version of the *One Thousand Two Hundred Billion* documentary amounted to an alternative view. Ofcom does not consider this to be the case: an examination of what Mr Hägg said shows that in fact he was broadly in agreement with a number of the views of Martin Borgs contained in the documentary.

The channel also suggested that the 14 September 2006 edition of *Insider* should be viewed alongside two other linked programmes already referred to, *Småpartier* and *Sverige demokraterna*, which contained a sufficiently wide breadth of Swedish opinion to satisfy the Code requirements on due impartiality. Ofcom notes that these two programmes did provide a range of views and afforded a platform to a varied spectrum of Swedish political opinion on many issues. However, crucially, neither of these programmes featured views of the then government about its taxation and benefit policies which were critically examined in the programme of 14 September 2006. There was thus no due impartiality provided through these programmes on the matter of major political controversy which was the subject of the 14 September programme.

For the above reasons, Ofcom has determined there was a breach of Rule 5.12.

Rule 6.1

The Code specifies that the Rules on due impartiality apply to the coverage of elections (Rule 6.1). This is a recognition of the responsibility of broadcasters – at the time of elections – not to confer any unfair electoral advantage on particular candidates or parties through their programming. Ofcom was particularly concerned that the abridged version of the documentary *One Thousand Two Hundred Billion* shown in this edition of the *Insider* programme linked specific policies in a personal manner with individuals in government who featured prominently in a general election campaign then entering its final stages in Sweden. Ofcom does not accept that the programme could reasonably be described as focussed on the Swedish tax and benefits system and public spending only in a general way so as not to constitute a 'major matter'. For the reasons explained above, Ofcom does not consider that the programme of 14 September 2006, or any linked programmes, provided an appropriately wide range of significant views as required. The broadcaster also therefore breached Rule 6.1.

Breach of Rules 5.12 and 6.1

Y Byd ar Bedwar

S4C, 14 June 2005, 20:30

Introduction

This edition of the investigative current affairs series, *Y Byd ar Bedwar*, concerned a dispute over grazing rights on property in a North Wales valley. The dispute had been taken up by the Welsh pressure group, Cymuned, which campaigns for the rights of Welsh speaking communities. The disagreement arose between a local farmer and the owner of the land, Susan Holland, and her partner, Marc Asquith. The programme explained that generations of the local farmer's family had farmed this land.

The Ofcom Fairness Committee upheld complaints by Mrs Holland and Mr Asquith of unfair treatment and unwarranted infringement of privacy arising from the programme. This finding was published in Broadcast Bulletin 75 on 11 December 2006, and is available at http://www.ofcom.org.uk/tv/obb/prog_cb/obb75/issue75.pdf.

However, the complainants were also concerned that the programme as a whole had "exhibited bias". This complaint concerns the requirement for broadcasters to maintain 'due impartiality' on matters of political or industrial controversy and matters relating to current public policy. In part, the programme examined the influx of English people to live in Wales as well as the specific dispute concerning the owners and a local farmer's grazing rights. The programme was therefore not simply limited to a treatment of the differences between urban and rural ways of life but looked as a whole at the issue of inward migration in to Wales and the work of the pressure group, Cymuned.

In view of the circumstances of this case, Ofcom considered the issues raised under due impartiality only after the Fairness Committee had adjudicated on the fairness and privacy complaint.

The relevant Code applicable to this programme was that of the Independent Television Commission (ITC). This requires that "due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy". The term 'due' should be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme.

S4C was asked to consider how the programme complied with the requirement for due impartiality in relation to the issue of 'colonisation', the influx of English people into Wales, and its impact on the Welsh language, housing and land use in Wales in light of Section 3.1 of the ITC Code.

Response

First, S4C suggested that the question asked in the opening titles was, in fact, misleading. This stated:

"Tonight, is the organisation Cymuned defending the Welsh people or enraging incomers?"

The broadcaster claimed the main aim of the programme was to examine and illuminate many different aspects of the current situation in rural Wales and that the subject of the programme was not the political aspects of the influx of English people. S4C explained that Cymuned is an organisation best known for attempting to stop the influx of English people into Welsh speaking areas and for battling against the effects of this so-called 'colonisation'. But S4C added that there was in fact only one reference to 'colonisation' throughout the programme (in an interview with the Chief Executive of Cymuned).

However, S4C acknowledged that after further consideration, the programme would have benefited from greater objectivity by avoiding commentary that made too many references to the views of the local farmer in the grazing dispute. S4C therefore agreed that some viewers could interpret the programme as a debate on the influx of non-Welsh speaking people into Wales i.e. about a matter of political controversy or relating to current public policy. In this respect the broadcaster accepted that due impartiality was not maintained within the programme itself, nor was it maintained in relation to the subject of the influx of people into Wales across the series as a whole.

S4C explained that as a topical current affairs programme, the production deadlines for *Y Byd ar Bedwar* are often very tight. Despite dealing with challenging and difficult issues, S4C argued that the track record of *Y Byd ar Bedwar* regarding compliance had been exceptionally good.

In this case, S4C did not become aware that there could be problems with the content of this programme until late in the afternoon on the day of the broadcast. The production team took legal advice and made some changes to the programme, later informing S4C that it had been cleared by ITV Wales' solicitor for broadcast. However, the production team was not in a position to provide S4C with a recording of the programme until an hour before transmission. After consideration of all the circumstances, S4C's Director of Programmes, having received advice from S4C's solicitors, decided to rely on ITV Wales' legal viewpoint and gave approval for the programme to be broadcast.

Decision

Ofcom viewed the programme carefully and concluded that it did deal with a matter of political controversy or relating to current public policy. Although the broadcast did not aim to focus specifically on the controversial issue of the influx of English people into Welsh speaking parts of Wales and the effects of this influx, the programme did contain the local farmer's views on this controversial issue. Further, these views were then repeated in the programme's commentary. There was therefore a requirement for due impartiality as regards the treatment of this subject. Alternative views were not however adequately included either in this programme or the series of programmes taken as a whole. The programme was therefore in breach of Section 3.1 of the ITC Code.

S4C has accepted that due impartiality was not preserved in this programme, nor across the series as a whole. The broadcaster was responsible for ensuring this programme complied with the due impartiality requirements in force at the time of broadcast. Ofcom is concerned that a breach of the Code occurred because tight deadlines did not allow S4C adequate time to carry out its compliance procedures before transmission. The requirement that due impartiality is maintained in matters of political or industrial controversy or relating to current public policy is an important one and is specifically set out in legislation. Ofcom acknowledges that tight production deadlines are an intrinsic feature of topical current affairs programmes

and therefore welcomes the fact that, in response to the acknowledged problems raised by this particular broadcast, S4C has now agreed a new set of tighter compliance guidelines with ITV Wales as part of the editorial brief for *Y Byd ar Bedwar* during 2007. Ofcom therefore accepts that the new guidelines and arrangements with ITV Wales should assist S4C, as the broadcaster, to ensure it meets its compliance obligations in this area.

Breach of Section 3.1 of the ITC Programme Code

Y Byd ar Bedwar

S4C, 14 Mehefin 2005, 20:30

Cyflwyniad

Roedd y rhifyn hwn o'r gyfres materion cyfoes ymchwiliol, *Y Byd ar Bedwar*, yn ymwneud ag anghydfod ynglŷn â hawliau pori ar eiddo mewn cwm yng Ngogledd Cymru. Roedd Cymuned, y grŵp pwysu Cymraeg sydd yn ymgyrchu dros hawliau cymunedau Cymraeg eu hiaith wedi mynd ar ôl mater yr anghydfod. Y rheswm dros yr anghydfod oedd anghytuno rhwng ffermwr lleol a pherchennog y tir, Susan Holland, a'i phartner, Marc Asquith. Roedd y rhaglen yn esbonio fod cenedlaethau o deulu'r ffermwr lleol wedi ffermio'r tir hwn.

Cynhaliodd Pwyllgor Tegwch Ofcom y cwynion gan Mrs Holland a Mr Asquith o driniaeth annheg a thorri anesgusodol ar breifatrwydd yn deillio o'r rhaglen. Cyhoeddwyd y canfyddiad hwn yn Broadcast Bulletin 75 ar 11 Rhagfyr 2006 ac mae ar gael yn http://www.ofcom.org.uk/tv/obb/prog_cb/obb75/issue75.pdf.

Ond roedd yr achwynwyr hefyd yn bryderus bod y rhaglen yn gyffredinol wedi 'dangos rhagfarn'. Mae'r achwyniad hon yn ymwneud â gofynion darlledwyr i gynnal 'didueddrwydd dyledus' ar faterion o ddadl wleidyddol neu ddiwydiannol a materion yn ymwneud â pholisi cyhoeddus cyfredol. Yn rhannol, roedd y rhaglen yn archwilio i'r mewnfudiad o Saeson oedd yn dod i fyw i Gymru yn ogystal â'r anghydfod penodol yn ymwneud â'r perchnogion a hawliau pori ffermwr lleol. Nid oedd y rhaglen felly yn gyfyngedig yn unig i driniaeth am y gwahaniaeth rhwng ffyrdd trefol a gwledig o fyw, ond roedd yn edrych ar y pwnc o fewnfudo i Gymru a gwaith y grŵp pwysu, Cymuned.

Yng ngoleuni amgylchiadau'r achos hwn, ystyriodd Ofcom y materion a godwyd o dan ddiueddrwydd dyledus yn unig ar ôl i'r Pwyllgor Tegwch farnu ar yr achwyniad tegwch a phreifatrwydd.

Y Côt perthnasol oedd yn berthynol i'r rhaglen hon oedd Côt Comisiwn Teledu Annibynnol (ITC). Mae hwn yn ei gwneud yn ofynnol bod 'didueddrwydd dyledus yn cael ei gadw ar ran y person sydd yn darparu'r gwasanaeth mewn perthynas â materion o ddadl wleidyddol neu ddiwydiannol neu yn berthynol i bolisi cyhoeddus cyfredol'. Dylid dehongli'r term 'dyledus' i olygu digonol neu briodol i natur y pwnc a'r math o raglen.

Gofynnwyd i S4C ystyried sut yr oedd y rhaglen yn cydymffurfio gyda'r gofyniad am ddiueddrwydd dyledus mewn perthynas â'r pwnc o 'goloneiddio', y mewnlifiad o Saeson i Gymru, a'i effaith ar yr iaith Gymraeg, tai a defnydd tir yng Nghymru yng ngoleuni Adran 3.1 o Gôd ITC.

Ymateb

I ddechrau, awgrymodd S4C fod y cwestiwn a ofynnwyd yn y teitlau agoriadol mewn gwirionedd yn gamarweiniol. Roedd hwn yn datgan:

"Heno, ydy'r mudiad Cymuned yn amddiffyn y Cymry neu yn gwylltio mewnfudwyr?"

Roedd y darlledwr yn hawlio mai prif nod y rhaglen oedd edrych ar, a rhoi goleuni ar y nifer o wahanol agweddau o'r sefyllfa gyfredol yng Nghymru wledig ac nad yr

agweddau gwleidyddol o'r mewnlifiad o Saeson oedd pwnc y rhaglen. Esboniodd S4C bod Cymuned yn fudiad sydd yn fwyaf adnabyddus am geisio atal y mewnlifiad o Saeson i ardaloedd Cymraeg eu hiaith ac am frwydro yn erbyn effeithiau'r hyn a elwir yn 'goloneiddio'. Ond ychwanegodd S4C mai dim ond un cyfeiriad a wnaethpwyd mewn gwirionedd at 'goloneiddio' yn y rhaglen (mewn cyfweiliad gyda Phrif Weithredwr Cymuned).

Ond cydnabu S4C, ar ôl ystyriaeth bellach, y byddai'r rhaglen wedi elwa oddi wrth fwy o wrthrychedd trwy osgoi sylwebaeth oedd yn gwneud gormod o gyfeiriadau at farn y ffermwr lleol yn yr anghydfod pori. Cytunodd S4C felly y gallai rhai gwylwyr ddehongli'r rhaglen fel dadl am y mewnlifiad o bobl heb fod yn siaradwyr Cymraeg i Gymru h.y. am fater o ddadl wleidyddol neu yn berthynol i bolisi cyhoeddus cyfredol. Yn hyn o beth derbyniodd y darlledwr na chafodd didueddrwydd dyledus ei gynnal o fewn y rhaglen ei hun ac na chafodd ei gynnal mewn perthynas â phwnc mewnlifiad o bobl i Gymru ar draws y gyfres yn gyffredinol.

Esboniodd S4C, fel rhaglen materion cyfoes mae'r amserlenni cynhyrchu ar gyfer *Y Byd ar Bedwar* yn aml yn dynn iawn. Er gwaethaf gorfod delio gyda materion heriol ac anodd, roedd S4C yn dadlau fod gan *Y Byd ar Bedwar* enw eithriadol o dda o ran cydymffurfriad.

Yn yr achos hwn ni ddaeth S4C yn ymwybodol y gallai fod problemau gyda chynnwys y rhaglen hon tan yn hwyr yn y prynhawn ar ddiwrnod y darlledu. Derbyniodd y tîm cynhyrchu cyngor cyfreithiol a gwneud rhai newidiadau i'r rhaglen gan hysbysu S4C yn ddiweddarach ei bod wedi ei chlirio gan gyfreithiwr ITV Wales ar gyfer ei darlledu. Ond nid oedd y tîm cynhyrchu mewn sefyllfa i ddarparu recordiad o'r rhaglen i S4C tan un awr cyn y darllediad. Ar ôl ystyried yr holl amgylchiadau penderfynodd Cyfarwyddwr Rhaglenni S4C, ar ôl derbyn cyngor gan gyfreithwyr S4C, i ddibynnu ar safbwynt cyfreithiol ITV Wales a rhoi cymeradwyaeth i ddarlledu'r rhaglen.

Penderfyniad

Edrychodd Ofcom yn ofalus ar y rhaglen a daeth i'r casgliad ei bod yn delio â mater o ddadl wleidyddol neu yn berthynol i bolisi cyhoeddus cyfredol. Er nad oedd y darllediad yn bwriadu canolbwyntio yn benodol ar y mater dadleuol o fewnfudiad o Saeson i rannau Cymraeg eu hiaith o Gymru ac effeithiau'r mewnlifiad hwn, roedd y rhaglen yn cynnwys barn y ffermwr lleol ar y pwnc dadleuol hwn. Roedd gofyniad felly am ddiueddrwydd dyledus o ran triniaeth y pwnc hwn. Ni chafodd barn arall fodd bynnag eu cynnwys yn ddigonol yn y rhaglen hon nac yn y gyfres o'r rhaglenni yn gyffredinol. Roedd y rhaglen felly yn torri Adran 3.1 o Gôd ITC.

Mae S4C wedi derbyn na chafodd didueddrwydd dyledus ei gadw yn y rhaglen hon, nac ar draws y gyfres yn gyffredinol. Y darlledwr oedd yn gyfrifol am sicrhau bod y rhaglen hon yn cydymffurfio gyda'r gofynion didueddrwydd dyledus oedd mewn grym ar adeg darlledu. Mae Ofcom yn bryderus bod y Côd wedi'i dorri oherwydd nad oedd amserlenni tynn yn caniatáu amser digonol i S4C gyflawni ei weithdrefnau cydymffurfriad cyn darlledu. Mae'r gofyniad bod didueddrwydd dyledus yn cael ei gadw mewn materion o ddadl wleidyddol neu ddiwydiannol neu yn berthynol i bolisi cyhoeddus cyfoes yn un pwysig ac mae wedi ei nodi yn benodol mewn deddfwriaeth. Mae Ofcom yn cydnabod bod amserlenni cynhyrchu tynn yn nodwedd gynhenid o raglenni materion cyfoes ac mae felly yn croesawu'r ffaith bod S4C, mewn ymateb i'r problemau cydnabyddedig a godwyd gan y darllediad neilltuol hwn, bellach wedi cytuno i set newydd o ganllawiau cydymffurfriad tynnach gydag ITV Wales fel rhan o'r briff golygyddol ar gyfer *Y Byd ar Bedwar* yn ystod 2007. Mae Ofcom felly yn derbyn

y dylai'r canllawiau a'r trefniadau newydd gydag ITV Wales gynorthwyo S4C fel darlledwr i sicrhau ei fod yn cwrdd â'i rwymedigaethau cydymffurfiad yn y maes hwn.

Torri Adran 3.1 o Gôd Rhaglen ITC (didueddrwydd dyledus)

Radio XL

15 September 2006, 11:30

Introduction

A homeopathic practitioner, who is a regular contributor on the station, provided information about gynaecological conditions, including infertility problems and how homeopathic medicine can help in certain circumstances. The predominant language used was Urdu, but the discussion also included a mixture of English and Gujarati.

We received a complaint from a listener who thought that the programme was, in fact, used to promote the contributor's practice; that it was not made clear who the practitioner was and who he is regulated by. Further, he advertised his services to promote his infertility treatment and suggested that he could help with the selection of the sex of a baby.

We requested the broadcaster's comments, under Section Two (Harm and Offence) and Section Ten (Commercial References) of the Broadcasting Code ("the Code") with particular reference to the following Rules 2.1 (adequate protection for the public from harmful material), 10.2 (separation of advertising and programming), 10.3 (products and services must not be promoted in programmes), and 10.4 (no undue prominence for a product or service).

Response

The broadcaster considered that the programme complied with the Code. Radio XL said that the contributor, Mr Gorania, clearly stated that he is a homeopathic practitioner and that he had been practising homeopathy for 32 years. He merely described the physiology and biochemistry of the menstrual cycle and the detection of ovulation. He said that homeopathic treatments can help with infertility problems. He did not make any suggestion that he could influence the sex of a baby.

With regard to the promotion of the contributor's practice, Radio XL said that Mr Gorania's contribution is designed to provide information to their listeners and not a programme designed to promote his services, although they did concede that a proportion of the broadcast was used to mention his practice and telephone numbers. They regarded this as acceptable and reasoned that, as there may be listeners who need to have a more detailed history and examination of their condition, it was necessary to give his contact details. They confirmed that his practice was advertised on the station, but that advertisements for his services were broadcast in a separate programme from the one complained of.

Decision

We obtained a translation of the programme from an independent translation service, and sent a copy to the broadcaster.

From the translation, we noted that Mr Gorania did appear to confine his comments to explaining the physiology of ovulation and a woman's optimum time to conceive. He also explained the array of issues that can be associated with an inability to conceive, including male fertility problems. The contributor said that homeopathic treatments could help, but only following a thorough consultation to establish a complete medical history. He made no claim that his treatment could influence the

sex of a child. We therefore concluded that his remarks promoted homeopathic medicine as a route that could, in certain circumstances, be helpful and therefore this aspect of the broadcast was not harmful and not in breach of Rule 2.1.

The contributor's practice and contact details were however promoted during the item:

"Callers will be pleased to hear that Dr Gorania is with us today - if you want to see him, he will be in Birmingham today. To make an appointment, please ring his mobile".

Both his mobile and telephone number were given. Later in the programme further mention was made of his practice.

"Some people turn up without an appointment resulting in long queues, which often causes chaos. It is therefore requested that people telephone before coming. The lines are open from 10 am to 10 pm".

Reference was also made to his head office in Luton.

One of the fundamental principles of the Code is that the advertising and programme elements of a broadcasting service must be clearly separated. Under the Code, it is not acceptable for a broadcaster to repeatedly promote or advertise a business or service within programming by providing telephone and contact details for a contributor. There were therefore breaches of Rules 10.2 and 10.3. In addition we considered that the references to the contributor's practice went beyond what was editorially justified under the Code and so were unduly prominent, leading to a breach of Rule 10.4.

Breach of Rules 10.2, 10.3 and 10.4

Graham and Louise Breakfast Show – Quiz of the Week

SGR Colchester, 27 November 2006, 08:00

Introduction

In this competition, a £50 Debenhams voucher was given away each day, with a grand prize of a £250 voucher and personal shopper experience. The prizes were provided by the local Debenhams store. In this programme, a 20 second recorded interview, between one of the presenters and a Debenhams personal shopping co-ordinator was played. This explained what the personal shopping service at the store involved. The contestant then had to answer a question based on the clip.

A listener queried the acceptability of the competition, suggesting that it amounted to a disguised advertisement for the store and that it was wrong to base a quiz question on a sponsor's products.

Ofcom asked the broadcaster to comment in respect of Rules 9.5 (no sponsor influence on editorial independence), 9.6 (prohibition on promotional sponsor references within a programme) and 9.7 (clear identification of sponsored programmes) of the Broadcasting Code ("the Code").

Response

GCap Media, which owns SGR Colchester, confirmed that the 'Quiz of the Week' feature complained of had been sponsored by Debenhams.

It noted the impact of using the interview sequence (which discussed a service provided by Debenhams) as part of the quiz which, as a feature, was sponsored by Debenhams. It also confirmed that having reviewed the material, it fully appreciated Ofcom's concerns about the content of the broadcast under Sections 9.5 - 9.7 of the Code. However, it assured us that at no point had the editorial independence of the programme compromised.

GCap explained that it had put together a comprehensive training and best practice guidelines scheme which was to be rolled out on a phased basis. The first, covering the sponsorship and promotions team at SGR Colchester itself, had now taken place. The original presenters of the programme had since left the station and their replacements had been fully briefed on the requirements of the Code. In addition, GCap had reviewed all sponsored programmes to ensure that the relationship with the sponsor was clear. The second phase of training would reach all programmers across the GCap group. The aim was to reduce the scope for any undue prominence issues and to increase awareness of where content features in sponsored programmes could give rise to problems in relation to the Broadcasting Code. The implementation of both phases was being led by senior management from the sponsorship and promotions commercial team with guidance from the group Programme Director.

GCap Media and SGR Colchester apologised for the Code breaches and stated that this had been an isolated and inadvertent event.

Decision

Notwithstanding the assurance given by GCap that the programme's sponsor had not influenced the editorial content, the reference to the sponsor had clearly been promotional. In addition, the competition was sponsored and the identity of the sponsor had not been made clear. As such the programme item had been in breach of both Rules 9.6 and 9.7 respectively.

Ofcom also noted that in September 2006 a breach of Rule 9.6 had been recorded against the same station. Ofcom therefore considered whether further regulatory action was necessary. However, in light of the steps taken by the broadcaster to remedy the breaches, including an undertaking to put in place specific training along with a best practice guidelines scheme to ensure compliance in future, Ofcom decided further action was not necessary on this occasion.

Breach of Rules 9.6 and 9.7

Star Reports and Music To Make You Feel Good

*Star Radio in Cambridge (Cambridge and Ely), 7 March 2006, 18:00
and 21 September 2006, 17:40*

Introduction

Star Reports is a 15 minute extended news programme. The broadcast featured a pre-recorded introduction and interview with the Managing Director of an overseas property company. The presenter introduced the feature by saying: “If you dream of having a summer house in Spain or Florida, a Cambridgeshire company might be able to help you”. She then reported that the guest had come “...into the studio to tell us more about his company”, which was “there to help and make sure transactions are secure”. Subsequently, she asked: “But buying a house abroad isn’t really for people like us is it – it’s just for the really, really rich?” and “So how does the company work?”

The interviewee’s first comment was: “Make your existing bricks and mortar work for you”. He then spoke about his company’s services, covering the money guarantee it offered, property it had available (including price) and its inspection flights.

An employee of a rival company complained to Ofcom that the feature was a “glorified plug” and noted that the featured company was running a concurrent advertising campaign on the station. This matter was under investigation by Ofcom when another complaint which raised similar issues was received. Ofcom therefore decided to consider these two cases together.

The second complaint was about *Music To Make You Feel Good*, which featured an interview with an employee of a local garage. In the item, listeners were given full travel directions to the garage and the times of its launch event for a new car. It detailed important features of the car (such as the number of seats and amount of space) and also included details of a competition to be held by the garage at the event.

A listener complained that this item was presented as editorial, when it was “clearly an extended advertisement for the garage...”.

In both cases Ofcom was concerned about:

- the possibility that the broadcaster had not maintained its independence of editorial control over programme content (Rule 10.1 of the Ofcom Broadcasting Code);
- the apparent promotion of products and services in the programme (Rule 10.3);
- the apparent undue prominence given to products and services in the programme (Rule 10.4); and
- the possibility that product placement had taken place in the programme (Rule 10.5).

In each case, we therefore sought the broadcaster’s comments in respect of the above Rules of the Ofcom Broadcasting Code (“the Code”).

Response

Star Reports

Star Radio said that it had not benefited financially from the broadcast of the feature concerning overseas property. It said that the interview with the property company representative had been included to “add detail and colour”. The broadcaster provided full details of the property company’s separate but concurrent advertising campaign. It also said that this campaign had been pre-paid and that the advertiser had chosen subsequently not to renew the contract.

Star Radio believed that it was difficult to obtain relevant comment for the type of feature broadcast unless it was from “someone who does the job or has specialist knowledge of the subject”. The broadcaster claimed that discussing what the contributor does gives “credibility to their information”. However, it confirmed that, as a result of the complaint, it had reinforced the importance of compliance with the Code to its news team, a new News Editor had received full training and new guidelines had been implemented to avoid recurrence of similar output.

Music To Make You Feel Good

Star Radio felt that the editorial independence of the broadcast had not been compromised.

UKRD Group, which owns Star Radio, acknowledged that the presentation team at Star did not have as robust an understanding of compliance as the news team had acquired subsequent to the complaint concerning *Star Reports*. This had been a communications error. UKRD added that it had therefore met station management to emphasise the Code obligations they needed to follow.

UKRD informed Ofcom that it took its obligations seriously and that systems had now been put in place across the station, and indeed across the whole UKRD Group, to avoid recurrence. It assured us that there had been no deliberate intent to breach the Code. The Group also implemented a programme to educate UKRD programmers concerning compliance and sought Ofcom’s involvement in this process.

Decision

In each case Ofcom was satisfied that the material was broadcast as editorial output over which Star Radio had maintained independent editorial control. Nevertheless, each broadcast was, in Ofcom’s opinion, clearly promotional and there appeared to be no editorial justification for the detailed discussions of the featured companies’ products and services. Each broadcast therefore breached Rules 10.3 and 10.4 of the Code.

In the case of *Star Reports* the broadcast contained a clear and extended promotion of a current advertiser’s products and services within news programming (see Introduction for examples). Ofcom believed this to be a serious breach of the Code, occurring as it did in news programming.

While the issues raised in *Music To Make You Feel Good* took place outside news programming, it also concerned similar issues to *Star Reports*, involving the clear promotion of a local company and its product and services. The sort of details given by the interviewee, such as full travel directions to the garage and the times of its

launch event for a new car (with further details), is not normally material that would be featured in editorial.

Given the similarities of the breaches, Ofcom was concerned that there appeared to be evidence of systemic compliance failure at Star Radio. Ofcom was therefore considering whether further regulatory action was necessary.

Given Ofcom's concerns, the highest level of management at UKRD Group took extensive action to address its compliance failures. The Group acknowledged a lack of communications between Star Radio's news and presentations teams. It also met with Star Radio management to ensure Star understood fully its obligations under the Code.

UKRD also provided evidence of its serious intent to avoid recurrence of similar Code breaches, not only at Star Radio but across all its stations, by the introduction of new compliance systems and training. Taken together, Ofcom concluded that these measures gave it sufficient comfort that what appeared to be systemic compliance failures had been addressed. However, Ofcom will take any further similar compliance failures extremely seriously.

Breach of Rules 10.3 and 10.4

Meridian Tonight

ITV1 (Meridian), 2 January 2007, 18:00

Introduction

A viewer complained about the inclusion of a competition in *Meridian Tonight*. The competition prize was £1000 of gift vouchers, which the news presenters told viewers could be:

“used at over 200 stores at the Bluewater shopping centre in Kent. You can bag a bargain from clothes to electronics, from toys to jewellery. There are 13000 free car parking spaces at Bluewater and now it’s open an extra hour on Saturdays – until 9pm”.

Ofcom sought the broadcaster’s comments on the references to the Bluewater shopping centre under Rule 10.11 of the Broadcasting Code (“the Code”) (references to brands within competitions must be brief and secondary).

Response

ITV acknowledged that the references were unacceptable and said that it very much regretted this incident.

ITV stated that following an Ofcom finding in October 2006 about a similar issue, ITV News took extensive action to avoid a recurrence. This included renewed training and a decision to sever links between a competition prize and other elements of a programme.

However, on the day in question an error arose because of a combination of factors. The news service was operating with a skeleton team and the offending script was produced by a production journalist very late in the day. The journalist clearly made a misjudgement and included information about the prize which went beyond basic information that would enable a viewer to make an entry decision. ITV said that unfortunately the script was put to air unchecked. The issue was recognised immediately on transmission and the script was rewritten for subsequent broadcast. ITV said it was confident from its inquiries that the issue would not have arisen on a “normal” day and that this was a regrettable mistake that was spotted immediately and remedial action promptly taken. ITV provided Ofcom with a recording of the revised competition, which was broadcast in subsequent editions of *Meridian Tonight*.

Decision

Rule 10.11 of the Code helps ensure that programmes are not, or are not seen to be, distorted for commercial purposes. This is particularly important for news programmes where the integrity of the editorial content is paramount.

While we accept that this appeared to be a genuine error and are reassured that ITV recognised and rectified the mistake immediately, we are concerned that this error arose despite Ofcom finding *Meridian Tonight* in breach of the Code in October 2006 for a similar matter. We consider that the prize description was overly promotional and, as such, the competition was in breach of Rule 10.11.

Breach of Rule 10.11

Not Upheld

Promotion of Sky Movies magazine

Sky One, 26 November 2006, 22:00

Introduction

Sky One promoted a new magazine called 'Sky Movies' during an episode of *Lost* on 26 November 2006. The promotional item appeared in promotional airtime (that is, airtime outside programmes that does not count towards advertising minutage). It was separated from the preceding advertisements by a Sky ident and appeared just before the sponsorship credits leading back into the programme.

A viewer queried the basis upon which the magazine was promoted.

We requested Sky's comments, with reference to both Ofcom's Cross-promotion Code and Section 10 of the Broadcasting Code.

The Cross-promotion Code allows a broadcaster to promote broadcasting-related services in promotional airtime, provided that it is not doing so in return for payment or other valuable consideration. The Cross-promotion Code states:

"'Broadcasting-related services' include all broadcasting activities licensable by Ofcom, for example television and radio services. They also include other services with a 'broadcasting feel', that is, services which deliver content similar to that delivered on a television or radio service. In addition, a website that provides content clearly and directly related to a Broadcasting-related Service may itself be a Broadcasting-related Service."

The Rules in Section 10 of the Broadcasting Code seek to ensure that the independence of editorial control over programme content is maintained, that programmes are not distorted for commercial purposes and that advertising and editorial (programming) are clearly separated.

Rule 10.3 states: "Products and services must not be promoted in programmes. This rule does not apply to programme-related material". Ofcom's guidance makes clear that programme-related material ("PRM") may only be promoted in or around the relevant programme.

PRM is defined in the Code as: "...products or services that are both directly derived from a specific programme and intended to allow listeners or viewers to benefit fully from, or to interact with, that programme".

In contrast to PRM, a broadcasting-related service ("BRS") is not programme-specific and may be promoted more flexibly within the broadcaster's schedule, i.e. its promotion is not limited to around a particular programme.

Response

Sky advised that it had recently launched two new magazines for subscribers to its sports and movies channels. The promotional launch campaign comprising this promotion ran from 24 November to 3 December 2006 across various Sky channels, including Sky One.

Sky explained that both magazines were only provided to subscribers and were not available for sale.

Sky considered that the Sky Movies magazine was a BRS, which it was therefore able to cross-promote on its channels. It said that the magazine provided further information to subscribers about current and 'up and coming' movies on the Sky Movies channels, and included detailed listings information regarding those services.

The Cross-promotion Code says that "a website that provides content clearly and directly related to a Broadcasting-related Service may itself be a Broadcasting-related Service". Sky's view appeared to be that the magazine was analogous to such a website in that it provided content clearly and directly related to the Sky Movies channels, and that therefore it would be disproportionate and inconsistent were Ofcom to consider a website to be a BRS but not a magazine.

Sky also said that the promotion for the Sky Movies magazine was consistent with the principle set out in the Cross-promotion Code that: "cross-promotions on television ... inform viewers of services that are likely to be of interest to them as viewers".

Decision

It was clear that Sky had promoted the magazine on the basis that it was a BRS, rather than PRM. In any event, the magazine was clearly not derived from a particular programme and was therefore not capable of being promoted as PRM.

The Cross-promotion Code is intentionally not prescriptive as to what may comprise a BRS. As the Cross-promotion Code states, BRSs include "services with a 'broadcasting feel', that is, services which deliver content similar to that delivered on a television or radio service". By this, Ofcom had in mind content involving sound and/or moving images. In addition, Ofcom recognised in the Cross-promotion Code that "a website that provides content clearly and directly related to a Broadcasting-related Service may itself be a Broadcasting-related service".

In a previous decision regarding another broadcaster's promotion of a magazine in promotional airtime, Ofcom said:

*"Moreover, a broadcaster's website may be considered to be a "broadcasting-related service" under Ofcom's Cross-promotion Code... In contrast, a magazine is not a broadcasting-related service and therefore cannot be cross-promoted."*¹

However, Ofcom considers that there are significant and crucial differences between the two cases:

- In the earlier case, the magazine being promoted was available to the general public for purchase from a wide range of retailers. In the current case, however, the Sky Movies magazine was only provided to Sky Movies subscribers and was not available to be purchased commercially, eg in newsagents or online. The magazine was provided alongside and as part of the Sky Movies subscription package; whilst a subscriber could opt not to receive the magazine, that would not change the cost of the combined package.

¹ *4Homes magazine as promoted on Ch 4 and E4*, Broadcast Bulletin 73 (13 November 2006)

- In the earlier case, the promotion contained a clear call to action, ie a selling message for the magazine. However, in the current case and bearing in mind that the magazine was provided to Sky Movies subscribers alongside and as part of their package, the promotion did not include a call to action.
- In the earlier case, the magazine contained generic content about homes and lifestyles similar to that readily available in other publications; the content was not clearly and directly related to the television channel. However, in the current case we noted that most of the content of the magazine was clearly specific to the Sky Movies channels; it was in essence a listings magazine for those channels and had more of a 'broadcasting feel' than in the previous case.

In view of the above considerations, Ofcom has concluded that in the very exceptional circumstances of this particular case the Sky promotion was, in effect, a promotion for the Sky Movies channels. It was therefore not in breach of the Cross-promotion Code. However, broadcasters are reminded of Ofcom's ruling in the earlier decision that "a magazine is not a broadcasting-related service and therefore cannot be cross-promoted."

Not upheld

Resolved

Top Gear

BBC Two, 16 July 2006, 20:00

Introduction

In this episode, Jeremy Clarkson invited a man in the studio audience to comment on a car the team were discussing. The audience member described the car as “gay”. Jeremy Clarkson repeated this word and went on to add “it’s a bit ginger beer”. Five viewers complained that the expressions used were offensive to homosexual people.

Rule 2.3 of the Broadcasting Code states that broadcasters “must ensure that material which may cause offence is justified by the context...”.

Response

Some viewers separately complained to the BBC about the same incident. The BBC, in its Editorial Complaints Unit (“ECU”) ruling published on 15 December 2006, concluded that:

“As Jeremy Clarkson supplemented the term “gay” with a phrase which is rhyming slang for “queer”, there was no doubt that it was being used in the sense of “homosexual”, and was capable of giving offence... in this instance there was no editorial purpose which would have served to justify the potential offence and the complaints were therefore upheld... the Executive Producer of Top Gear has reminded the presenters and the production team of the importance of avoiding derogatory references to sexual orientation”.

In response to a request from Ofcom, the BBC confirmed that it was content for the ECU ruling to stand as the Corporation’s formal comment on the complaints made to Ofcom.

Decision

Any use of the word “gay” which results in a negative portrayal of homosexual men and women can give rise to concern. Some in the homosexual community are sensitive to the word being used in a pejorative way, having seen adoption of the word as a means of referring to themselves and their community in a positive manner. To use it as a term of ridicule therefore runs the risk of giving offence.

However, there is evidence that for over the past thirty years or so a second meaning of the word has gained currency. The current edition of the Oxford English Dictionary (OED) states that in this second usage “gay” means foolish, stupid, and socially inappropriate, or disapproved of and lame. The Dictionary points to an original published use in 1978 of the word with this meaning, and states that this usage is slang and most common in the USA. The OED does not consider this meaning of the word to be offensive. The Dictionary does not set out the origins of this second meaning.

In Ofcom’s view there is not sufficient evidence to conclude that use of the word “gay” is necessarily and automatically intended to be, or is, offensive. Broadcasters’

right to freedom of expression should not be restricted without at least some objective evidence that the word in context was capable of causing offence.

In this edition of *Top Gear*, the presenter's use of a Cockney rhyming phrase made clear he intended to give a particular meaning to the use of the word "gay" by the member of the audience, i.e. not to restrict its meaning simply to foolish or stupid, but clearly linking the reference to homosexual people. This, in Ofcom's opinion, meant that the use of the word became capable of giving offence. In the context, there was no justification for using the word in this way. We note, however, that the BBC has taken steps to remind the production team and presenters of the importance of avoiding derogatory references to sexual orientation. In light of the ECU ruling and the BBC's actions, we consider the matter resolved.

Ofcom wishes to remind broadcasters that, whilst there is a meaning of the word "gay" which may not be offensive in context, broadcasters should take care about when and how frequently it is used. This is particularly true for programming that may have a significant number of children watching or listening. It is possible for adults to be able to distinguish different uses of the word, but it is not clear that children - especially in the playground - are capable of doing so. Casual uses of "gay" as a word which could be regarded as offensive to homosexual people without careful thought as to context could potentially result in bullying.

Resolved

The Charlotte Church Show

Channel 4, 23 February 2007, 22:00

Introduction

The Charlotte Church Show is a late night topical comedy entertainment show. The programmes featured a sketch in which films were parodied. In each case, the host, Charlotte Church, was edited into the films so that it appeared that she was one of the characters. A strap line at the bottom of each clip named the film, credited the film studio responsible for it and gave information about the film's release, e.g. "*Dreamgirls in cinemas now*", "*Little Miss Sunshine out now on DVD*".

Ofcom asked the broadcaster to comment on the inclusion of the strap lines under Rules 10.2 (separation of advertising and programming) and 10.3 of the Broadcasting Code (products and services must not be promoted in programmes).

Response

Channel 4 said that one of the editorial requirements of the programme was that it was topical and referred to current events, particularly in the entertainment industry (film, television, music, popular culture etc.). In this respect, it was important that the programme included references to material that was current and instantly recognisable by the viewer, such as recent film, television and music references.

In terms of the sketches, Channel 4 believed that the insertion of Charlotte Church into each of the film clips was in keeping with the irreverent style of the show and was both original and editorially justified. However, in terms of the inclusion of the strap lines, Channel 4 said that while it believed that simply acknowledging the title of each film and the film studio would have been satisfactory, it accepted that to also include the additional words "*in cinemas now*" and "*out on DVD*" could be regarded as advertising or promotion.

Channel 4 said that similar references to the strap lines were common in entertainment chat shows and magazine shows when, for example, a film was being reviewed on its theatrical or DVD release. However, although the films in each episode were used because they were relatively recent releases and therefore topical, Channel 4 accepted that the information included in the strap lines might possibly not have the same editorial justification as there would be if an actor who featured in those films was present on the Show. Channel 4 said it regretted that on this occasion such words were included without adequate editorial justification.

Regarding the measures the channel has taken to avoid such concerns in the future, Channel 4 said that prior to the commencement of the second series of the show, a lawyer from its Legal and Compliance department gave a presentation to the programme's production team, including advice on commercial references within programmes. Also, in addition to reviewing scripts in advance and discussing with the Commissioning Editor and producers, a lawyer from the Legal and Compliance department now attended each recording of the show at the studio.

Channel 4 said it was unfortunate that the issue regarding the strap lines, which were added in post-production, was not picked up. Since the matter had been raised by Ofcom, the Channel has reiterated to the production company the importance of exercising care when including information to viewers which may infringe on the

requirement to keep advertising and programme elements separate and not to promote products and services. This particular point would be highlighted in all future legal and compliance briefings and included in more detail in briefing notes. Further, Channel 4 said that the strap lines would be edited out of any future repeats of the programme.

Decision

We welcome Channel 4's acknowledgement that the references to cinema and DVD release dates were not editorially justified in the context of a comedy sketch. We agree that the inclusion of this information in the sketches without sufficient editorial justification was likely to be viewed as promotional and therefore in breach of Rule 10.3.

In view of the steps taken by the broadcaster to avoid recurrence, we considered the matter resolved.

Resolved

Note to Broadcasters

New targets for Ofcom's handling of complaints

To help ensure a faster and more efficient service to complainants, Ofcom has revised its internal targets for the time it takes to handle Standards and Fairness and Privacy complaints from the public. The changes were introduced as of 1 April 2007.

Standards

Our new target to complete 'straightforward' cases will be 30 working days. 'Straightforward' cases are those in which Ofcom does not need to contact the broadcaster to resolve the complaint.

Ofcom will aim to conclude 80% of its 'complex' investigations within 60 working days. 'Complex' cases are those which require investigation with the broadcaster. (Some of these cases, for instance those that lead to the imposition of statutory sanctions, inevitably take longer than the 60 days).

Fairness and Privacy

Fairness and Privacy complaints relate to the treatment of those directly affected by programmes and it is important that Ofcom provides an effective complaints handling service aimed at those who are seeking redress. Our new targets are designed to reflect this.

Ofcom aims to make a decision on whether a complaint is within remit (an Entertainment Decision) on all investigations within 20 working days of receipt of a completed complaint form.

We aim to provide our provisional decision in straightforward investigations within 80 working days. Straightforward cases are those complaints adjudicated upon by the Executive Fairness Group following one exchange of written statements or complaints resolved by way of 'appropriate resolution'.

We aim to provide our provisional decision in complex investigations within 130 working days. Complex cases are those adjudicated upon by either the Executive Fairness Group or the Fairness Committee with two exchanges of written statements and/or a hearing.

Where either party requests a review of either an Entertainment or a Provisional Decision, we aim to resolve 80% of such requests within 30 working days.

Previously, in calculating these Key Performance Indicators (KPIs), Ofcom would extend the targets to take into account unforeseen delays, e.g. if a broadcaster delayed in sending Ofcom its formal comments on a complaint. From 1 April 2007, however, in order to provide the best service possible, Ofcom will no longer allow the KPIs to be extended.

We are therefore putting broadcasters on notice that with effect from the date of this Bulletin, Ofcom expects them to respect the deadlines set by Ofcom (as outlined in our published procedures) when carrying out an investigation. Ofcom will only accept extensions to deadlines where there are adequate and sufficient reasons for doing so. In all cases, Ofcom would expect to be informed as soon as possible.

Fairness and Privacy Cases

Not Upheld

Complaint by Mr Roger Croston on behalf of Dr Bruno Beger

Secret History: The Nazi Expedition, Channel 4, 12 July 2004

Summary: Ofcom has not upheld this complaint of unfair treatment in the broadcast of the programme.

Mr Croston complained that Dr Bruno Beger was treated unfairly in an edition of *Secret History*. The programme examined an expedition to Tibet in 1938 in which Dr Beger took part as the team's anthropologist. The programme alleged that while the official goal of the expedition was scientific, its secret mission was to discover the "origins of the Aryan peoples" and "search for signs of a long-vanished master race". The programme made a number of allegations concerning Dr Beger and in particular stated that: prior to the expedition Dr Beger had "drawn up criteria for forcible sterilisation in order to eliminate 'unworthy life'", that during World War II Dr Beger intended to study the skulls of Jewish Commissars of the Red Army shot by German soldiers; and, that in Auschwitz concentration camp he selected prisoners who were "sacrificed for the sake of scientific comparison" and put to death at the Natzweiler concentration camp. The programme stated that Dr Beger "received a three year prison sentence as 'accomplice to 86 cases of murder'".

Mr Croston complained that the allegations made about Dr Beger were unfair, and most serious were those concerning "forcible sterilisation" and the skulls of the Jewish Commissars; that the allegations in the programme adversely affected Dr Beger's reputation; and, that he was not given an opportunity to respond to the allegations made.

Channel 4 responded that it wholly rejected any complaint that the programme was unfair in its treatment of Bruno Beger. It stated that Dr Beger's reputation was not adversely affected and placed the programme's allegations in the context of Dr Beger being a former SS officer and convicted war criminal. Channel 4 also responded that Bruno Beger was given an opportunity to contribute to the programme when it was originally made in Germany and in any event it questioned the necessity of giving Bruno Beger an opportunity to contribute to the programme given that his membership of the SS and his conviction as an accomplice to the murder of Jewish people during the war were matters of public record.

Ofcom found that the allegations made in the programme did not result in unfairness to Dr Beger, and, given the established facts concerning Dr Beger, were not capable of adversely affecting his reputation. In light of these findings the Committee found that there was no obligation on the broadcaster to offer Dr Beger an opportunity to respond to, or comment on, the arguments and evidence within the programme.

Introduction

This documentary programme, part of the *Secret History* series, was entitled *The Nazi Expedition*. The programme examined the work of five German scientists, and members of the SS, who in 1938 conducted an expedition to Tibet under the leadership of Ernst Schaefer. It featured the work, and archive footage, of the expedition's anthropologist Dr Bruno Beger who took facial casts and measurements

of Tibetans as part of its research. The programme set out to show that while the official goal of the expedition was scientific, its secret mission was to discover “*the origins of the Aryan peoples*” and “*search for signs of a long-vanished master race*”. This was set in the wider context of the work of the Ahnenerbe, an ancestral heritage foundation set up by the leader of the SS, Heinrich Himmler.

The programme also discussed the lives of members of the expedition team, including Dr Beger, before during and following World War II. The programme made a number of allegations concerning Dr Beger and in particular stated: that prior to the expedition Dr Beger had “*drawn up criteria for forcible sterilisation in order to eliminate ‘unworthy life’*”; that during World War II Dr Beger intended to study the skulls of Jewish Commissars of the Red Army shot by German soldiers and to have these “*sent back to Germany for his anatomy collection*”; and, that in Auschwitz concentration camp he selected prisoners who were “*sacrificed for the sake of scientific comparison*”, and put to death at the Natzweiler concentration camp and were part of the creation of “*a comprehensive collection of skeletons*”. The programme stated that Dr Beger “*received a three year prison sentence as ‘accomplice to 86 cases of murder’*”.

Mr Roger Croston complained on behalf of Dr Bruno Beger that he was treated unfairly in the programme as broadcast.

The Complaint

Mr Croston’s case

In summary, Mr Croston complained that Dr Beger was treated unfairly in that:

- a) The programme contained inaccurate information, distortions as well as unfair selections and juxtapositions of material taken out of context, which was misleading to the audience which resulted in unfairness to Dr Beger. In relation to this head of complaint Mr Croston also submitted detailed individual complaints regarding the programme’s commentary (see below at head d).
- b) The programme adversely affected Dr Beger’s reputation. In relation to this head of complaint Mr Croston also submitted detailed individual complaints regarding the programme’s commentary (see below at head d).
- c) Dr Beger was not given an opportunity to contribute to the programme. In relation to this head of complaint Mr Croston stated the Dr Beger had declined an opportunity to respond to an earlier German programme on which this programme was based. However Mr Croston argued that the earlier programme was substantially different from the Channel 4 programme as broadcast and that Dr Beger had not therefore been offered an opportunity to respond to the programme as broadcast.
- d) In summary, and in relation to the above heads of complaint, Mr Croston submitted detailed individual complaints regarding the programme which, he stated, resulted in unfairness to Dr Beger:

Complaint 1: The programme unfairly stated that the expedition had sinister motives and thereby adversely affected Dr Beger’s reputation. Mr Croston stated that this was not the case as it was a normal and wide ranging scientific study in accordance with the then world wide standards.

Complaint 2: The mission was not secret, as unfairly stated in the programme, but a normal scientific expedition. There was no “*darker purpose*” to the

expedition nor was the expedition team looking for the origin of an Aryan peoples or signs of a vanished "*Master Race*". Mr Croston complained that Dr Beger's reputation was adversely affected by the programme's claim.

Complaint 3: The expedition did not attempt to rewrite history nor to justify any change to the future of the world as unfairly stated by the programme. Mr Croston complained that Dr Beger's reputation was again adversely affected by this claim.

Complaint 4: The expedition was not an official German one, as unfairly stated by the programme, but privately run. Furthermore Mr Croston complained that the programme unfairly implied that it was a search for "*the true cradle of the Aryan race*" when this allegation was unfounded.

Complaint 5: The expedition was not undertaken courtesy of the Ahnenerbe foundation nor sponsored by the SS as unfairly stated by the programme. Rather it was financed, Mr Croston stated, independently of Himmler and the Ahnenerbe foundation although political support from both was required to obtain foreign currency and passports.

Complaint 6: Mr Croston complained that the programme's statement that the expedition did not have entry visas was unfair since its members did have permission to travel to India.

Complaint 7: The programme stated that British authorities in India were "*wary*" as German scientific expeditions were used as cover to foment uprisings. Mr Croston complained that this unfairly implied that the British authorities were suspicious of the Schaefer expedition and this was unfair to Dr Beger, and adversely affected his reputation, since no evidence has been produced to support this claim.

Complaint 8: The invasion of Czechoslovakia was unfairly referred to out of chronological order when in fact it did not occur until the expedition was actually in Tibet.

Complaint 9: The references to science and scientists in 1938 Nazi Germany and the influence on science of totalitarian governments unfairly implied that the members of the Tibet expedition, including Dr Beger, were involved in harmful activity when this was not the case. Mr Croston complained that Dr Beger's reputation was again adversely affected by the references.

Complaint 10: The quotation from the expedition's leader Ernst Schaefer that "*the goals of SS ideology and research are the same*" was unfairly taken out of chronological order, when in fact the statement was made five years after the Tibet expedition and had no connection with it.

Complaint 11: The claim that Ernst Schaefer's private intention was to practise hunting and collecting rare plants and animals was unfair as it was a publicly stated aim from the start.

Complaint 12: Mr Croston complained that the programme used archive of the expedition film unfairly, wrongly translated the film's commentary regarding Tibetan mythology and incorrectly attributed the expedition filming to Tibet when it was actually filmed in neighbouring Sikkim.

Complaint 13: The analogy between the skull and cross bones of Tibetan culture, and the SS, was contrived and was never made by the expedition members, as unfairly implied by the programme. Mr Croston complained that the programme unfairly suggested that the five SS members of the 1938 expedition had absolute power over life and death.

Complaint 14: The programme unfairly implied that the expedition was expected to reach the Tibetan capital Lhasa by their sponsor(s) when in fact this was not the stated original aim.

Complaint 15: Mr Croston complained that the expedition never had as an aim the collection of evidence of common German-Tibetan roots as unfairly stated by the programme. Furthermore Dr Beger did not have this as a research objective as unfairly stated by the programme.

Complaint 16: The programme unfairly included the statement that Dr Beger was committed to the ideology of racial superiority. Mr Croston complained that Dr Beger's reputation was again adversely affected by this claim.

Complaint 17: The programme unfairly stated that Dr Beger offered free medical treatment to recruit volunteers to be measured for his anthropological studies, when in fact he offered this treatment regardless of any involvement in the studies.

Complaint 18: The programme unfairly stated that "*At home, he [Dr Beger] has drawn up criteria for forcible sterilisation to eliminate 'unworthy life'*" when there was no evidence for this claim and it was unsubstantiated by original documents. Mr Croston stated that this was one of the two most serious allegations unfairly made in the programme.

Complaint 19: The programme's reference to Dr Beger's fascination with death, linked to his observations of a sky burial, unfairly implied that he had unworthy motives in Tibet.

Complaint 20: Mr Croston complained that the programme unfairly stated that Dr Beger was looking for signs of the Aryans in the proportions of the Tibetan people. Dr Beger did not use the term 'Aryan' since it was not a valid scientific term and his anthropological studies were consistent with standard worldwide anthropological measurements.

Complaint 21: The programme unfairly suggested that Dr Beger made 200 facial casts of Tibetans when in fact he only made 16.

Complaint 22: The documentary unfairly stated that the Tibetans were part of an experiment that would lead to mass murder. In fact they were part of no such experiment and there was no link between the expedition and Dr Beger's subsequent involvement in a programme that led to the murder of 86 prisoners.

Complaints 23, 24 & 25: Mr Croston stated that neither Dr Beger nor the expedition had as an objective the goal of finding physical proof that the Nazis were descended from a pure Aryan type as unfairly stated by the programme's commentary and by historian Christopher Hale in interview.

Complaint 26: The programme unfairly used the emotive term 'victim' to refer to a person having a cast made of his head when he was not deliberately and

intentionally injured. This was unfair to Dr Beger and implied he had unworthy motives in Tibet.

Complaint 27: The programme unfairly stated that Dr Beger believed that his collection of facial casts concealed the characteristics of the Aryan super race. In fact Dr Beger never used the term 'Aryan' or 'super race' and he was using worldwide standard objective anthropological methods.

Complaint 28: Mr Croston complained that the programme unfairly referred to Dr Beger using the "*mathematics of the Master Race*" when in fact he never used the term "Master Race" and the mathematics used was that of the standard anthropology of the time.

Complaint 29: The programme unfairly referred to the invasion of Poland out of chronological order when in fact Poland was not attacked until after the expedition returned to Germany.

Complaint 30: The programme unfairly stated that "*Himmler recalls his men*" when in fact the expedition's leader was advised to return to Germany by his father, and the expedition team was not under the orders or control of Himmler.

Complaint 31: The programme unfairly stated that the knowledge acquired by the expedition was used to feed divisive and elitist racial theories propounded by the SS. In fact the knowledge acquired was only used in order for Dr Beger to write a paper and the expedition leader to use in his film and book. Mr Croston complained that Dr Beger's reputation was again adversely affected by this claim.

Complaint 32: The programme unfairly claimed that the footage of the Tibetan expedition was turned into a propaganda film *Secret Tibet*. The claims about parallels between German and Tibetan society were not made in *Secret Tibet* as alleged in the programme (transcript translation and recording have been provided). The film is recognised today as an expedition travelogue.

Complaint 33: The programme unfairly referred to the Tibet expedition as having looked for traces of Aryan heritage when this was not the case.

Complaint 34: The programme unfairly stated that Dr Beger compared his Tibetan measurements with other races, with "*data derived from death*" when neither was the case. Mr Croston complained that Dr Beger's reputation was adversely affected.

Complaint 35: The programme unfairly stated "*Hitler orders his soldiers to shoot the Jewish Commissars of the Red Army on sight. Beger intends to study their skulls to be sent back to Germany for his anatomy collection*". Mr Croston stated that this was the second of the two most serious allegations unfairly made in the programme. Mr Croston stated that at Dr Beger's trial in 1971 the judge stated that Dr Beger could not have been the author of the document "Securing the skulls of Jewish-Bolshevist Commissars" on which this allegation was based. Mr Croston argued it was therefore not the case that Dr Beger intended to have the skulls sent to him, this was a programme proposed by August Hirt [another member of the Ahnenerbe] and was never carried out. Mr Croston complained that Dr Beger's reputation was again adversely affected.

Complaint 36: The programme unfairly implied that Dr Beger selected over 100 Auschwitz prisoners to be killed when in fact he selected them for anthropological

measurements only. Mr Croston stated that subsequently Himmler and Hirt were found guilty of the murder of the prisoners, Dr Beger was found guilty only as an accomplice to murder.

Complaint 37: Mr Croston complained that the programme unfairly stated that to Dr Beger these people were the antithesis of the Aryans who he had been looking for in Tibet. In fact Dr Beger was not looking for Aryans in Tibet and he never stated that any people were the antithesis of Aryans.

Complaint 38: Mr Croston complained that the programme did not make clear that Dr Beger selected prisoners (at Auschwitz concentration camp) only for anthropological measurement and not to be put to death. Mr Croston stated that it was made clear at Dr Beger's trial in 1970 that their deaths were planned by Himmler and Hirt.

Complaint 39: Mr Croston complained that the programme, which stated that "*in 1971 Bruno Beger received a three year prison sentence as accomplice to 86 cases of murder*", did not state that Dr Beger was given the minimum sentence of three years suspended, because (the court accepted) he had been 'entrapped by fate in mass murder and had not been involved out of condemnable motives'.

Complaint 40: The programme unfairly stated that the expedition attempted "*to make myth modern history*" when this conclusion could not be drawn from its plans or results. Mr Croston complained that this was unfair to Dr Beger as an expedition member.

In summary, Mr Croston complained that Dr Beger's privacy was unwarrantably infringed in the broadcast of the programme through the commentary's reference to his home town. However this complaint was not entertained by Ofcom since the reference was sufficiently general to be incapable of infringing Dr Beger's privacy.

Channel 4's case

In summary Channel 4 responded to the fairness complaint made by Mr Croston on behalf of Dr Beger as follows:

- a) Channel 4 stated that it wholly rejected any complaint that the programme was unfair in its treatment of Bruno Beger. Channel 4 responded to the complaint that the programme contained inaccurate information, distortions and unfair selections and juxtapositions of material taken out of context, by addressing each point at head d) below.
- b) Channel 4 next responded to the complaint that the programme adversely affected Bruno Beger's reputation. Channel 4 noted that: Bruno Beger's work as an anthropologist was almost entirely confined to his activities as an officer in the SS; he holds a PhD but has held no academic post in Germany; and, after the defeat of the Third Reich he was a paper manufacturer and therefore has no 'academic reputation' to defend.

Channel 4 stated that Bruno Beger studied under Hans F.K. Gunther who taught anthropology based on concepts of race and that following his PhD he joined the SS and Nazi Party and worked for the Race and Settlement Office which ensured SS recruits and their prospective brides measured up biologically. Channel 4 stated that Bruno Beger, like the SS head Himmler, became fascinated with the possibility that

Nordic migrations had left biological traces in the people of the Himalayas and was offered a chance to join the Tibet expedition.

Channel 4 described how following the expedition and the start of WWII, Dr Beger returned to Germany, served in the SS and took part in the invasion of Russia. He continued 'scientific studies' with an Institute linked to the Ahnenerbe, and was on Himmler's 'Personal Staff'. Channel 4 stated that Dr Beger devised a study comparing the buttocks of African 'Hottentots' and Jewish women held in ghettos and concentration camps although this was never carried out.

Channel 4 stated that in 1943 Dr Beger became involved with 'Project Beger' which also drew in the head of the Ahnenerbe, Wolfram Sievers, the manager of the Nazi genocide Adolf Eichmann and Dr August Hirt. The Project had its origins in a chilling letter recommending the collection of the skulls of 'Jewish Bolshevik commissars' murdered on the eastern front. According to Professor Michael Kater, an authority on the Ahnenerbe, it was almost certainly written by Bruno Beger. The letter advised remedying the shortage of Jewish skulls by procuring those of the commissars "a repulsive yet characteristic sub-humanity" and instructed "following the induced death of the Jew, whose head must not be damaged...separate the head from the torso".

Channel 4 stated that Bruno Beger proceeded to the Auschwitz concentration camp to carry out anthropological studies. The prisoners he selected for study were transferred to Natzweiler KZ concentration camp. Bruno Beger followed and, according to Channel 4, assisted Hirt in a series of studies using x-rays as an anatomical record and means of sterilising males, all 86 prisoners were then murdered and their remains transferred to Strasbourg University. Bruno Beger subsequently continued his 'work' with them at the Sven Hedin Institute.

According to Channel 4, towards the end of the war Bruno Beger studied 'Races in War', was captured in Italy and spent some time in an internment camp.

Channel 4 stated that the Nuremberg 'Doctors Trial' followed the main trials in 1946 and the 'Jewish Skeleton Collection' became one part of it. Bruno Beger was mentioned in evidence at this trial but, according to Channel 4, his role in the Skeleton Collection was yet to be uncovered. Evidence continued to be gathered in the 1960s, much of it by historian Michael Kater, and Bruno Beger was finally put on trial in 1970. He was found guilty of being an 'accomplice to murder' over his work in connection with concentration camps in Germany, and given a three year sentence which was reduced to a probationary sentence on appeal. This was on the grounds that he had waited a long time for his trial and had endured internment.

- c) Channel 4 responded to the complaint that Bruno Beger was not given an opportunity to contribute to the programme by noting that the complainant agreed that Bruno Beger was given an opportunity to contribute to the programme when originally made in Germany but declined. Channel 4 argued that the programme complained of was a re-version of the original programme, made and broadcast in Germany, about which Bruno Beger made no complaint.
- d) In summary, and in relation to the above heads of complaint, Channel 4 responded to the individual complaints regarding the programme.

Channel 4 1st Response to Complaint 1: Regarding the reference to "*sinister motives*", Channel 4 stated that all the members of the expedition were officers of the SS which was declared a 'criminal organisation' by the Allies because of its

direct and central role in the murder of millions of Jews, homosexuals and gypsies. Channel 4 noted that Bruno Beger worked for the SS Race and Settlement Office which monitored the racial quality of SS recruits, and that the expedition members all received promotions while in Asia. Channel 4 concluded that to refer to their motives as “*sinister*” was simply a reflection of internationally accepted moral standards.

Channel 4 1st Response to Complaint 2: Regarding the complaint that the mission was “*secret*” with a “*darker purpose*” in relation to seeking the origins of a vanished “*master race*”, Channel 4 stated that this was substantiated by the file on the expedition held by the India Office in the British Library. According to this file the expedition did not reveal its destination nor the nature of its scientific activities to the British authorities.

Channel 4 1st Response to Complaint 3: Channel 4’s full response to the complaint regarding the reference to “*attempts to re-write history*” is made in its response at Complaint 15. Channel 4 stated that the documented expedition purpose was to provide evidence of an Aryan empire in the Himalayas. This idea was propagated by Bruno Beger’s PhD supervisor, but was now considered incorrect and was never taken seriously outside Germany.

Channel 4 1st Response to Complaint 4: Regarding the reference to an “*official German expedition*”, Channel 4 argued that the expedition was an ‘official German’ one since it was referred to as the “*Deutsche Tibet Expedition*” on headed paper. Channel 4 commented that this was hardly likely to have happened in a totalitarian society if it was not the case. Furthermore the official report of the expedition described “*the German Reich*” reaching into the Asian Continent. According to Channel 4 the expedition members were feted by Himmler on their return and the German press reported the trip as ‘Hitler’s delegation to Tibet’. Regarding the reference to the “*Aryan race*” Channel 4 made its full response at Complaint 15.

Channel 4 1st Response to Complaint 5: Regarding the reference to the “*Ahnenerbe*” institute, Channel 4 responded that the expedition was undertaken courtesy of the Ahnenerbe. In spite of quarrels with the Ahnenerbe over funding the expedition described itself as “*under the patronage of Reichsfuhrer-SS Himmler and in connection with the Ahnenerbe*”. The expedition also turned to alternative funding sources including the official Nazi Party newspaper. The expedition was not independent of the SS, the Ahnenerbe, nor the Nazi state and its various agencies

Channel 4 1st Response to Complaint 6: Regarding the reference to “*entry visas*”, Channel 4 responded that this had little bearing on unfairness to Bruno Beger. The point made is that this major expedition set off without permission to enter Tibet which was the stated goal.

Channel 4 1st Response to Complaint 7: Regarding the reference to British wariness over German scientific expeditions used as cover to launch uprisings, Channel 4 responded that there was a great deal of evidence to show that such German activity during and after WWI would have led the British authorities in India to view the expedition with suspicion. Furthermore the expedition’s leader, Ernst Schaefer was subsequently involved with Himmler in a plan to return to the Himalayas and recruit Tibetans into a guerrilla force against the British although this was not carried out.

Channel 4 1st Response to Complaint 8: Regarding the reference to the invasion of Czechoslovakia, Channel 4 stated that the policy of German rearmament, and British appeasement, was mentioned to situate the story of the expedition in a wider historical context. The expedition required British permission to travel to Tibet and this was acquired as part of a policy of appeasement. This policy ended with the invasion of Czechoslovakia. In any event, Channel 4 stated, the reference had no bearing on unfairness to Bruno Beger.

Channel 4 1st Response to Complaint 9: Regarding the reference to “*science in Nazi Germany*”, Channel 4 responded that this statement alluded to the fact that the expedition included a cross section of science in the Third Reich. In any event, Channel 4 stated, the statement could not be taken to imply harmful intentions in Tibet unless the complainant believed German scientists in the Third Reich would inevitably cause harm.

Channel 4 1st Response to Complaint 10: Regarding the reference to Ernst Schaefer announcing that “*the goals of SS ideology and research are the same*”, Channel 4 argued that it was perfectly legitimate to present an analysis of the expedition leader Ernst Schaefer’s motivations using interviews he gave throughout 1933 to 1945. The statement made after the expedition and quoted in the programme was no different to assertions in his book from ten years earlier.

Channel 4 1st Response to Complaint 11: Regarding the reference to Ernst Schaefer “*privately*” intending to hunt in Tibet, the India Office files in the British Library, showed that Schaefer was given permission to enter only as a traveller and not to harm any Tibetans or kill any birds, or animals, which would offend the religious feelings of the Tibetan people. This condition of travel was defied.

Channel 4 1st Response to Complaint 12: Regarding the reference to Tibetan mythology, Channel 4 responded that the programme’s sequence was not misleading since, although it was true that it was filmed in Sikkim, practices in Sikkim and Tibet were very similar. In any event, Channel 4 argued, it had no bearing on any alleged unfairness to Bruno Beger.

Channel 4 1st Response to Complaint 13: Regarding the reference to the “*skull and cross bones*”, Channel 4 argued that Ernst Schaefer frequently exploited the fact that the swastika was a revered symbol which could be seen all over the Tibetan world. Schaefer brought with him a collection of swastika pennants and used these to imply kinship between Tibet and Nazi Germany.

Channel 4 1st Response to Complaint 14: Channel 4 responded to the complaint regarding the reference to the expedition’s sponsor’s expectations at Complaint 15.

Channel 4 1st Response to Complaint 15: Regarding all references to the aim of the expedition, Channel 4 responded that it was true that Bruno Beger and the expedition were not looking for blue eyed, blond peoples in the Himalayas and that Bruno Beger did not use the term ‘Aryan’ in written sources at least. However, the complaint contained a series of misunderstandings over Bruno Beger’s terminology and methodology, and over the aims of the expedition.

Channel 4 argued that Bruno Beger’s use of terminology demonstrated that he was looking for evidence of ‘Euroid’ features in individuals i.e. biological traits exhibited mainly by Europeans, but possessed by some non-Europeans, implying descent from a common ancestor. Channel 4 stated that ‘Euroid’ was

interchangeable with 'Aryan', the legal classification in Nazi Germany of the ancestry of Reich citizens. Channel 4 stated that this was substantiated by documentation provided by the complainant, in which Bruno Beger described 'Europid' traits as "tall, with a long head, thin face, less protruding cheek bones...straight hair and an imperious self assured manner". Furthermore, the Race and Settlement Office of the SS that employed Bruno Beger used the same physical criteria to weed out unsuitable SS applicants.

The programme made clear Bruno Beger's methodology, namely in measuring, recording and mathematically processing many different kinds of physical trait, including eye colour and hair type, which would provide evidence of biological linkage between Asians and Europeans. He did not use the term 'Aryan' to describe these traits as this was considered a confusing term by his PhD supervisor professor Hans F.K. Gunther. However the term he used 'Europid' was interchangeable with 'Aryan' and the latter was chosen by the programme makers as it was more accessible to a wide audience.

Channel 4 stated that the expedition was planned by Ernst Schaefer who was reported, by the British Mission Officer in Tibet, to be fascinated by 'the Aryan line' and also 'Anti-Jew'. According to Channel 4, Schaefer was unlikely to have chosen an anthropologist who did not share this preoccupation. His long-term interest in 'Aryan' racial traits in Asian peoples, evidenced by his writings before 1938, provided a key motivation for the expedition to Tibet. He wrote: "this opens up a whole new area of science...to establish how far the Aryan race interspersed on the roof of the world" and this was the proposal he took to Himmler in 1936.

The distribution of Aryan types in the Himalayas was also the work of Bruno Beger's professor, the anthropologist Hans F.K. Gunther who wrote about the superiority of the Aryan peoples and the barely human status of lesser races like Jews and Slavs. In a 1933 book, for which Bruno Beger drew up the maps, Gunther asserted that a Nordic empire had spread from northern Europe deep into central Asia, but eventually bred 'half castes' with inferior races, and declined and disappeared. Gunther suggested that scattered among some Himalayan peoples were the remote descendents of these original Nordic peoples. Bruno Beger subsequently wrote of the 'proof' of this in his report on his work in Tibet *Rassen in Tibet*.

Channel 4 1st Response to Complaint 16: Regarding the reference to Bruno Beger's fascination with "*what made a particular race inferior or superior*", Channel 4 stated that this had been established beyond reasonable doubt in its response to Complaint 15 (above). One of the characteristic common traits Bruno Beger observed was a 'sense of being dominant', and the race theory proposed by his supervisor Hans F.K. Gunther, endorsed by the Third Reich and taught to students like Bruno Beger, was by definition a pseudo scientific theory of racial difference and superiority. Channel 4 argued that it was incumbent on the complainant to show that Bruno Beger: who was educated by a leading German anthropologist of race theory promoted by the Nazi regime; who voluntarily joined the SS which was dedicated to the ideas of racial purity; and, who contributed a number of race studies to the SS Ahnenerbe institute, was not committed to the idea of racial superiority. Bruno Beger did not have to make statements to this effect since in the Third Reich they were assumed to be self-evident truths.

Channel 4 1st Response to Complaint 17: Regarding the reference to Bruno Beger offering "*free medical treatment*" in order to recruit volunteers for his studies, Channel 4 responded that this was corroborated by his own diaries.

Channel 4 1st Response to Complaint 18: Regarding the reference that Bruno Beger had drawn up criteria for forcible sterilisation in order to eliminate “*unworthy life*”, Channel 4 responded that Bruno Beger was a supporter of the ‘Lebensborn’ (well of life) project which was created by Himmler and where babies born to ‘racially pure’ girls were adopted and brought up by the SS. Channel 4 stated that according to the authors Victor and Victoria Trimondi, as well as being a dedicated supporter of the Lebensborn project, Bruno Beger’s particular areas of expertise included the development of criteria for sterilisation, castration and abortion programmes intended to prevent “unworthy life”. Channel 4 stated that Bruno Beger had written that “The role model for selection, the breeding aim of our people and its pioneer the SS, is the Nordic race” and that he was intimately involved with the development and application of such ideas through his work with the SS Race and Settlement Office. Furthermore, Channel 4 stated, when Beger worked along side his collaborator Dr August Hirt at the Natzweiler concentration camp x-rays were used to sterilise some of the prisoners.

Channel 4 1st Response to Complaint 19: Regarding the reference to Bruno Beger being fascinated by death in Tibet, Channel 4 responded that since many travellers to Tibet were fascinated by “sky burials” in which “the flesh is cut off and the bones battered to powder”, this did not imply unworthy motives. However, the extent of filming of the sky burials showed an unusual interest in them by the expedition that may be described as obsessive.

Channel 4 1st Response to Complaint 20: Regarding the reference that Bruno Beger was searching “*for signs of the Aryans*”, Channel 4 responded fully at Complaint 15 above.

Channel 4 1st Response to Complaint 21: Regarding the reference to Bruno Beger making facial masks and that “*more than 200 subjects are recorded*”, Channel 4 responded that Mr Croston was correct, only 16 casts were made and stated that the factual mistake had been corrected. Channel 4 stated however that this did not substantially alter the meaning of this part of the programme in relation to Bruno Beger.

Channel 4 1st Response to Complaint 22: Regarding the reference to the subjects little suspecting that they were part of an “*experiment that will end in mass murder*”, Channel 4 made its full response at Complaint 15 (above). Channel 4 stated that according to Bruno Beger’s own standards he was involved in an experiment to prove a hypothesis regarding race. Such anthropological criteria was later used to classify various peoples as non-Aryan and resulted in their murder and the Tibetans could have had no idea of this, which supported the references made in the commentary.

Channel 4 1st Response to Complaints 23, 24 and 25: Regarding the references to the expedition seeking to find proof of Nazi descent from a “*pure Aryan type*”, Channel 4 responded fully at Complaint 15 (above).

Channel 4 1st Response to Complaint 26: Regarding the reference to a “*victim*” to describe one of Bruno Beger’s Tibetan ‘subjects’, Channel 4 responded that on at least two occasions he caused physical discomfort to the subjects he measured, or made face masks from, and this was reported in his diaries. Furthermore, Channel 4 stated, un-transmitted expedition footage showed Bruno Beger measuring a woman who was clearly in distress.

Channel 4 1st Response to Complaint 27: Regarding the reference to Bruno Beger believing that his casts concealed “*the characteristics of the Aryan super race*”, Channel 4 responded fully at response to Complaint 15 (above). Channel 4 also stated that face masks were an important way to gather evidence of Aryan traits among Asian peoples.

Channel 4 1st Response to Complaint 28: Regarding the reference to Bruno Beger using “*the mathematics of the master race*”, Channel 4 responded fully at responses to Complaints 15 and 22 (above). Channel 4 also responded that anthropologists like Bruno Beger assumed that Aryans were biologically and mentally superior to other races. Channel 4 stated that the complainant’s assertion that Bruno Beger’s anthropology was an international standard of the time was based on the similarities between turn of the century American and Nazi German anthropology, but Channel 4 asserted that this was not ‘standard’ it was in fact founded on a notion of the innate superiority of white Anglo Saxons. Furthermore, according to Channel 4, while anthropologists in the UK and America abandoned race based methodology using measurements, the situation in Germany under the Nazis was the reverse.

Channel 4 1st Response to Complaint 29: Regarding the reference to the attack on Poland, Channel 4 confirmed that the complainant was correct. Poland was not attacked until after the expedition returned to Germany. However Channel 4 argued that this had no bearing on any alleged unfairness to Dr Beger.

Channel 4 1st Response to Complaint 30: Regarding the complaint over the reference “*Himmler recalls his men*”, Channel 4 stated that there was clear evidence that Himmler had a close relationship with Ernst Schaefer and this led to the return of the expedition to Germany. Channel 4 argued that the expedition was the result of a meeting between the two men, that Himmler arranged for foreign currency and permission to leave Germany and Himmler made arrangements to smooth over problems with the British India Office regarding travel arrangements, referring to Schaefer as “one of my men”, and Himmler also arranged the expedition’s triumphant return to Germany.

Channel 4 1st Response to Complaint 31: Regarding the reference that the expedition’s knowledge “*will feed the divisive and elitist racial theories propounded by the SS*”, Channel 4 responded fully at responses to Complaints 15 and 28 (above).

Channel 4 1st Response to Complaint 32: Regarding the reference to the expedition film being turned into a propaganda film *Secret Tibet*, Channel 4 responded that a close examination of *Secret Tibet (Geheimnis Tibet)* showed that it developed an interpretation of Tibetan history which was clearly designed to appeal to German audiences in the mid-1940’s and so was a form of propaganda. Channel 4 argued that comparisons between the corrupting influence of a church state in Tibet and the Judaeo-Christian tradition in Germany were inferences that a German audience would understand.

Channel 4 1st Response to Complaint 33: Regarding the reference to the expedition looking for Aryan heritage, Channel 4 responded fully at Complaint 15 (above).

Channel 4 1st Response to Complaint 34: Regarding the reference to Bruno Beger comparing the Tibetan measurements with other races and with data derived from death, Channel 4 responded that Dr Beger did compare data from

Tibet with skeletal evidence acquired from murdered prisoners in the Natzweiler concentration camp (discussed below at responses to Complaints 35 and 36).

Channel 4 1st Response to Complaint 35: Regarding the reference to Bruno Beger intending to study the skulls of Jewish Commissars shot by Hitler's soldiers, Channel 4 responded that, as detailed above at response head b), the letter recommending the collection of the skulls of 'Jewish Bolshevik commissars' murdered on the eastern front was almost certainly written by Bruno Beger. Channel 4 argued that key documentary evidence showed Bruno Beger's willing, high level involvement in the 'Skeleton Collection': a 1943 letter to the SS-Obersturmführer Eichmann regarding the 'Skeleton Collection' refers to "Dr Bruno Beger our staff member charged with the above-mentioned special mission" and of 115 selected Auschwitz inmates being transferred to Natzweiler concentration camp for "further processing".

Channel 4 1st Response to Complaint 36: Regarding the reference to Bruno Beger selecting over 100 prisoners who "*will be sacrificed for the sake of scientific comparison*", Channel 4 drew Ofcom's attention to the word 'only' in the complaint and responded that the evidence of the 1971 trial was problematic as the trial judge was not a historian, furthermore Bruno Beger's war crime trial was held in 1971 and in the ensuing 30 years study of the Nazi period and the Holocaust had hugely advanced.

Channel 4 argued that the 1971 court judgement did not reflect reliable history nor evidence subsequently discovered concerning Bruno Beger's involvement with the 'Skeleton Collection' and the deaths of 86 prisoners in the Natzweiler concentration camp. Bruno Beger denied knowing that the prisoners on whom he carried out measurements at Auschwitz would be transported to Natzweiler, killed and incorporated into the skeleton collections at the University of Strasbourg. However Channel 4 observed that for Bruno Beger to have exploited an extermination camp was already a heinous moral crime. Furthermore, as a high ranking SS officer it was hard to believe that Dr Beger would not know what would have been the fate of the prisoners at Auschwitz, since by then Auschwitz was a killing machine devoted to the elimination of all European Jews. This is further discussed in Channel 4's response head b) above.

Channel 4 stated that, following the trial, new evidence placed Bruno Beger at Natzweiler six days after the arrival of the prisoners from Auschwitz, x-raying their skulls. The killing began three days later. Furthermore, Channel 4 argued, a mass of documentation revealed Bruno Beger working on "Jewish skulls" at an institute established by Ernst Schaefer, and almost certainly these were the skulls removed from Strasbourg.

Channel 4 1st Response to Complaint 37: Regarding the reference to Jews being "*the antithesis of the Aryans who he had been looking for in Tibet*", Channel 4 responded fully in its response to Complaint 15 (above).

Channel 4 1st Response to Complaint 38: Regarding the reference to "*the men and women selected by Beger*", Channel 4 responded fully in its response to Complaint 36 (above).

Channel 4 1st Response to Complaint 39: Regarding the reference to Bruno Beger's "*three year prison sentence as accomplice to 86 cases of murder*", Channel 4 responded that Bruno Beger was sentenced to 3 years in prison but following a campaign mounted by his friends this sentence was appealed and

reduced to three years on probation. Channel 4 stated that he was then given a suspended sentence, not because he was considered less guilty, but because he had been interned after the war, he had had to wait ten years to be tried and had spent 4 months in custody in 1960. Channel 4 argued that with the evidence that had recently emerged it was unlikely the same verdict would be reached today, however the fact remained that Bruno Beger had been found guilty as an accomplice to the murder of 86 people.

Channel 4 1st Response to Complaint 40: Regarding the reference to the expedition being a *“fatal quest to make myth modern history”*, Channel 4 responded that history was always interpretive and based on the best available evidence. Channel 4 argued that the statement was a legitimate and well-founded summary of the significance of the SS Expedition 1938-39. Bruno Beger and Ernst Schaefer both wanted to find evidence of biological traces of an ancient Nordic (Aryan) mythical migration to Tibet. Bruno Beger’s pseudo-scientific studies on the expedition led to him acquiring skeletal specimens, following the murder of 86 people, to compare with his Asian samples.

Mr Croston’s second statement

In summary Mr Croston commented on the broadcaster’s response as follows:

- a) Mr Croston’s comments on Channel 4’s response to the complaint of inaccurate information, distortions, unfair selections and juxtapositions of material taken out of context were addressed individually at head d) below. Mr Croston also stated that original sources were not given in support of Channel 4 statements and these statements also included conjecture.
- b) Regarding Channel 4’s response to the complaint that the programme adversely affected Dr Beger’s reputation, Mr Croston commented that Dr Beger’s conviction was in relation to one concentration camp not ‘camps’ as referred to by Channel 4. Furthermore Mr Croston stated that Dr Beger holds a university doctorate degree and ‘Dr’ is a legal part of his name.

Mr Croston commented that Channel 4 stated that following WWII Bruno Beger was a paper manufacturer, when later in its submission stated he was a publisher of educational books. Furthermore, Mr Croston commented that the complaint was not that Dr Beger’s ‘academic reputation’ had been adversely affected, but that his reputation had been affected in relation to the care broadcasters must take when their programmes are capable of adversely affecting an individual’s reputation.

With regard to Channel 4’s submission that Bruno Beger outlined a programme of study that compared the buttocks of ‘Hottentots’ with Jewish women, Mr Croston stated that Hottentots did not feature in the programme and this was irrelevant. With regard to the letter on the procuring of skulls of Jewish-Bolshevik commissars Mr Croston stated that it was established in court that Dr Beger was not the author. Mr Croston argued that Professor Kater [who was quoted by Channel 4 as an authority on the Ahnenerbe] was part of the prosecution of Bruno Beger and therefore not impartial. Furthermore Professor Kater stated that the author could equally have been Professor Hirt.

Mr Croston argued that Channel 4’s submission recognised that Dr Beger was to carry out anthropological studies at Auschwitz. Mr Croston stated that was all he was

expected to do and there was nothing in the legal verdict to substantiate Channel 4's allegation that Dr Beger assisted Hirt in the experimental sterilisation of males. Furthermore, according to Mr Croston, Channel 4 did not substantiate its allegation that Dr Beger removed the [skeleton] collection to the Sven Hedin Institute to continue his work.

- c) Regarding Channel 4's response to the complaint that the programme did not give Dr Beger an opportunity to respond to allegations made in the programme, Mr Croston stated that Dr Beger had not been told that the German and Channel 4 programmes would be different. Dr Beger had not been told that the Channel 4 programme would discuss: sterilisation; the main aim of the expedition being the search for an "Aryan Master Race"; the Jewish-Bolshevik Commissars; nor, his role in the 'skeleton collection'. He was invited only to contribute about the Tibet Expedition. Furthermore Mr Croston stated that Dr Beger had no recollection of having received the letter, inviting his response, from the German production company.
- d) In summary and in relation to the above heads of complaint, Mr Croston commented on Channel 4's responses to the individual complaints regarding the programme as follows:

Mr Croston's comment on Channel 4's response to Complaint 1: Regarding the programme's reference to "*sinister motives*", Mr Croston stated that the correct title of the expedition was "Deutsch Tibet Expedition Ernst Schaefer" and members of the expedition were members of the SS but it was not organised or run by the SS. Mr Croston argued that the SS was declared a criminal organisation in 1945, not 1938 when the expedition took place, so it was unfair to describe the motives of the expedition members as "sinister". There was no documentation to show the expedition was sinister and such a comment set the tone of the programme from the start.

Mr Croston's comment on Channel 4's response to Complaint 2: Regarding the programme's reference to a "*secret*" mission, Mr Croston stated that Channel 4 had not provided documented evidence that the expedition was "secret" nor searching for evidence of an Aryan migration to Tibet. Furthermore, he noted that Channel 4 accepted that the expedition's purpose was documented in which case it was not secret.

Mr Croston's comment on Channel 4's response to Complaint 3: Regarding the programme's reference to attempts to "*re-write history*", Mr Croston commented that no evidence was provided to support this claim. Dr Beger's work was only one element of a multi-disciplinary expedition and so his work had been taken out of context. Furthermore, according to Mr Croston, his report on the expedition was not just about Europids but about the many races in the make-up of the Tibetan population.

Mr Croston's comment on Channel 4's response to Complaint 4: Regarding the programme's reference to an "*official German expedition*", Mr Croston argued that Dr Beger was not participating in an "official" German expedition as part of a hand picked team of Nazi scientists.

Mr Croston's comment on Channel 4's response to Complaint 5: Regarding the programme's reference to the expedition being "*courtesy of the Ahnenerbe*", Mr Croston stated that the expedition was not "courtesy" of the Ahnenerbe and Channel 4's own submission subsequently referred to it as being 'in connection with 'the Ahnenerbe'.

Mr Croston's comment on Channel 4's response to Complaint 6: Regarding the programme's reference to "*visas*", Mr Croston made no further comment.

Mr Croston's comment on Channel 4's response to Complaint 7: Regarding the programme's reference "*cover to launch uprisings*", Mr Croston commented that Channel 4 did not provide any original evidence in support of their statement that the British would be "wary" that this particular expedition would be used to launch uprisings.

Mr Croston's comment on Channel 4's response to Complaint 8: Regarding the programme's reference to the "*invasion of Czechoslovakia*", Mr Croston re-stated his original complaint.

Mr Croston's comment on Channel 4's response to Complaint 9: Regarding the programme's reference to "*science under a totalitarian regime*", Mr Croston commented that there was a negative implication in the reference to "*science*" under a totalitarian government, which accorded with the whole programme and reflected on the expedition members.

Mr Croston's comment on Channel 4's response to Complaint 10: Regarding the programme's reference to the "*goals of SS ideology and research*", Mr Croston commented that Channel 4 stated that the SS was a criminal organisation but noted that this was not the case at the time of the expedition.

Mr Croston's comment on Channel 4's response to Complaint 11: Regarding the programme's reference to "*privately...hunting*", Mr Croston commented that sources for this allegation were not provided by Channel 4.

Mr Croston's comment on Channel 4's response to Complaint 12: Regarding the programme's reference the Tibetan "*magical world*", Mr Croston commented that Channel 4 admitted that the footage shown was filmed in Sikkim not Tibet, and argued that this inaccuracy of information raised questions about the accuracy of information concerning Dr Beger.

Mr Croston's comment on Channel 4's response to Complaint 13: Regarding the programme's reference to "*skull and cross bones*", Mr Croston commented that Channel 4's response concerned the swastika but did not address the skull and cross bones reference complained of.

Mr Croston's comment on Channel 4's response to Complaint 14: Regarding the programme's reference to the "*sponsor's expectations*", Mr Croston argued that Channel 4 had not substantiated the statement that Himmler had expectations of the expedition.

Mr Croston's comment on Channel 4's response to Complaint 15: Regarding the programme's reference to the "*primary mission*", Mr Croston commented that Channel 4 had not provided any further substantiation of the claim that the main purpose of the expedition was the anthropological aims undertaken by Dr Beger. Furthermore, Mr Croston argued that Channel 4 admitted that Dr Beger did not use the term Aryan in his writings and research. Mr Croston stated that Channel 4's reference to German anthropological writings and the legal definition of Aryan in Nazi Germany were unrelated to Dr Beger's use of racial terminology. Mr Croston argued that it was disingenuous of Channel

4 to alter the words of Dr Beger to arrive at a legal term used in Nazi Germany. Dr Beger did not use common everyday speech for racial groups but rather he used internationally recognised biological classifications still in use today. Mr Croston argued that Dr Beger did not aim to provide evidence of biological linkage between Asians and Europeans, rather he described all races in Tibet and their possible links.

Mr Croston's comment on Channel 4's response to Complaint 16:

Regarding the programme's reference to "*what made a particular race superior or inferior*", Mr Croston argued that Channel 4 relied on secondary sources in its submission concerning Dr Beger's views on racial superiority.

Mr Croston's comment on Channel 4's response to Complaint 17:

Regarding the programme's reference to "*free medical treatment*", Mr Croston stated that Dr Beger was not offering medical treatment only to recruit volunteers, but gave treatment regardless of whether people refused to be measured.

Mr Croston's comment on Channel 4's response to Complaint 18:

Regarding the programme's reference to Dr Beger drawing up "*criteria for forcible sterilisation*", Mr Croston commented that Channel 4 had not checked for accuracy the secondary sources they relied on in making this allegation, particularly in light of the seriousness of the accusation being made, namely that Dr Beger drew up criteria for forcible sterilisation. Dr Beger was not given an opportunity to respond to this allegation regarding sterilisation which had not been in the German programme. Mr Croston argued that Dr Beger left the Race and Settlement Office before it became involved with SS medicine. Furthermore, he argued, Professor Hirt did not become Dr Beger's 'collaborator' in sterilisation as stated by Channel 4.

Mr Croston's comment on Channel 4's response to Complaint 19:

Regarding the programme's reference to Dr Beger being "*fascinated by death*", Mr Croston stated that the point of this complaint regarding fascination with death was that the reference unfairly suggested that Dr Beger had unworthy motives.

Mr Croston's comment on Channel 4's response to Complaint 20:

Regarding the programme's reference to "*signs of the Aryans*", no further submissions were made by Mr Croston.

Mr Croston's comment on Channel 4's response to Complaint 21:

Regarding the programme's reference "*200 subjects are recorded*", Mr Croston commented that the factual error over the number of casts made was a distortion of the amount of anthropological work completed by Dr Beger in Tibet and suggested that anthropology was a much greater element of the multi-disciplinary expedition than it actually was. Mr Croston questioned whether the mistake was corrected in further broadcasts of the programme.

Mr Croston's comment on Channel 4's response to Complaint 22:

Regarding the programme's reference to the "*scientific experiment that will end in mass murder*", Mr Croston argued that Dr Beger's measurements were unfairly portrayed as experiments. He stated that physical anthropology was not pseudo-science. Furthermore, he argued that the court found that Dr Beger did not know about the killing plan at Auschwitz when he was there as it was still in preparation.

Mr Croston's comment on Channel 4's response to Complaints 23, 24 & 25:

Regarding the programme's references to the expedition's aim to discover proof of Aryan descent, Mr Croston commented that Channel 4 provided no substantiation of its allegations regarding the expedition's aims.

Mr Croston's comment on Channel 4's response to Complaint 26:

Regarding the programme's reference to a Tibetan "*victim*", Mr Croston argued that the use of the word 'victim' to describe one of Dr Beger's subjects built up a negative portrayal of him.

Mr Croston's comment on Channel 4's response to Complaint 27:

Regarding the programme's reference to the "*Aryan super-race*", Mr Croston commented that Dr Beger did not use the term 'Aryan super race' and he did not believe that Tibetan faces concealed such characteristics and Channel 4 provided no original source material.

Mr Croston's comment on Channel 4's response to Complaint 28:

Regarding the programme's reference to the "*master race*", Mr Croston commented that Dr Beger never used the term 'master race' and his anthropology accorded with the then worldwide standard.

Mr Croston's comment on Channel 4's response to Complaint 29:

Regarding the programme's reference to the invasion of Poland, Mr Croston noted that Channel 4 admitted the chronology was incorrect which, Mr Croston argued, led to the questioning of the accuracy of statements made about Dr Beger.

Mr Croston's comment on Channel 4's response to Complaint 30:

Regarding the programme's reference "*Himmler recalls his men*", Mr Croston commented that it was unfair to describe members of the expedition as 'Himmler's men' and this complaint was supported by original source material concerning the expedition's dealings with Himmler.

Mr Croston's comment on Channel 4's response to Complaint 31:

Regarding the programme's reference to the expedition's knowledge feeding "*racial theories*", Mr Croston stated that Channel 4 had not provided any supporting evidence from original sources to support the programme's statement that the knowledge acquired by the expedition fed divisive or elitist theories propounded by the SS.

Mr Croston's comment on Channel 4's response to Complaint 32:

Regarding the programme's reference to "*Secret Tibet the propaganda story*", no further material submissions were made by Mr Croston.

Mr Croston's comment on Channel 4's response to Complaint 33:

Regarding the programme's reference to "*traces of Aryan-Germanic traditions*", no further submissions made were made by Mr Croston.

Mr Croston's comment on Channel 4's response to Complaint 34:

Regarding the programme's reference to "*data derived from death*", Mr Croston stated that there was no evidence that Dr Beger compared his Tibet data with murdered prisoners from Natzweiler concentration camp. He argued that the court found that Dr Beger made measurements of 150 living persons in Auschwitz which he used to supplement his Tibet data.

Mr Croston's comment on Channel 4's response to Complaint 35:

Regarding the programme's reference to the "*Jewish Commissars*", Mr Croston stated that Dr Beger was not a willing participant in the 'Skeleton collection', indeed the court verdict was that he only participated reluctantly due to an 'entanglement by fate'. Mr Croston further argued that the claim by Channel 4 that Dr Beger was the author of the letter regarding the procurement of skulls from Jewish-Bolshevik commissars was found by the court not to have been proven. In his book Channel 4's expert, Professor Kater, himself stated that this was still not definitely clarified.

Mr Croston's comment on Channel 4's response to Complaint 36:

Regarding the programme's reference "*In Auschwitz he selects over a hundred prisoners*", Mr Croston stated that the use of the word 'only' in relation to his complaint concerning Dr Beger selecting prisoners was to state that he did no more than select prisoners to be measured. The complainant said he did not use words to exonerate Dr Beger but only used extracts of the 1971 trial court verdict. The programme should have made it clear that: Dr Beger had not been the author of the 'acquiring skulls' document; that he was not involved in the planning of the skeleton collection plan; and, once he became aware of the skeleton collection plan he only participated in it reluctantly. Mr Croston argued that thirty years of additional evidence or information was irrelevant to the claims being made in the programme, because no new compelling evidence was provided by Channel 4 since the trial of 1971.

Mr Croston's comment on Channel 4's response to Complaint 37:

Regarding the programme's reference to the "*antithesis of the Aryans*", Mr Croston's comments are given at comments on response to Complaint 15 (above). Mr Croston further stated that Channel 4 provided no evidence for the statement that "Jews were the antithesis of the Aryans he had been looking for in Tibet".

Mr Croston's comment on Channel 4's response to Complaint 38:

Regarding the programme's reference to "*men and women selected by Beger are put to death*", Mr Croston commented that the programme did not make it clear that Dr Beger had selected persons at Auschwitz only for measurement.

Mr Croston's comment on Channel 4's response to Complaint 39:

Regarding the programme's reference to Dr Beger's "*three year prison sentence*", Mr Croston argued that Channel 4 had provided no substantiating evidence to support the claims made in their statement regarding Dr Beger's three year sentence. He said the court's verdict was legally binding. Furthermore the guilty verdict had nothing to do with any anthropological measurements taken by Dr Beger, rather he was sentenced for the blood-typing of prisoners who were to be killed and for the taking of radiograms.

Mr Croston's comment on Channel 4's response to Complaint 40: Regarding the programme's reference to the quest to "*make myth modern history*", Mr Croston commented that Dr Beger had no aim to make myth modern history and Channel 4 had not provided any evidence to substantiate that his anthropological work had such an aim. He argued that the programme stated that Dr Beger was searching for Aryans in Tibet, but in their submission Channel 4 referred to Nordics or Europids when this was not what the programme stated. Dr Beger was not looking for Aryans in the Nazi sense and his work was only a small part of a larger scientific expedition.

Channel 4's second statement

In summary Channel 4 responded to Mr Croston's comments as follows:

- a) Channel 4 stated that it should not be forgotten that Bruno Beger was a former SS officer and convicted war criminal. Channel 4 drew Ofcom's attention to the principal areas of complaint: the nature and goals of the expedition; sterilisation and the Lebensborn project; and, the 'Jewish Skeleton Collection' war crime (dealt with individually at head d) below).
- b) Regarding the complaint that the programme adversely affected Bruno Beger's reputation Channel 4 again drew Ofcom's attention to the principal areas (dealt with individually at head d) below.
- c) Regarding the complaint that Bruno Beger was not given an opportunity to contribute to the programme, Channel 4 responded that it questioned the necessity of giving Bruno Beger an opportunity to contribute to the programme given that his membership of the SS and his conviction as an accomplice to the murder of Jews during the war were matters of public record. Nevertheless the German programme makers did invite Bruno Beger to contribute to the programme and he declined. It would have been reasonable for Bruno Beger to assume that any interview with him would have included discussion of the Jewish skeleton collection and his work as an anthropologist in Tibet, which were related and were matters of public record.
- d) In summary and in relation to the above heads of complaint, Channel 4 responded to the individual complaints regarding the programme:

Channel 4 second response in relation to Complaint 15: Regarding the nature and goals of the expedition, Channel 4 responded that the expedition had a number of scientific and pseudo-scientific aims of which the anthropological study was most important from a historical point of view. The expedition was related to SS ideology about race and this explained why Himmler was the sponsor of the expedition. Channel 4 argued that the expedition work was inspired by the work of other Nazi anthropologists. The term Europid used by Bruno Beger was simply a substitute for other terms used to refer to Europeans or Aryans. According to Channel 4 his work was pseudoscientific because it was based on ideological definitions of racial hierarchies.

Channel 4 Second Response to Complaint 18: Regarding the reference to sterilisation, Channel 4 stated that Mr Croston provided documents which confirmed Bruno Beger's connection with the notorious 'Lebensborn' project and that he accepted that some lives were more valuable than others. Channel 4 argued that this was a core belief of Nazi race science which validated the sterilisation of tens of thousands of individuals who were considered not worthy of life.

Channel 4 Second Response to Complaint 36: Regarding the Jewish skeleton collection war crime, Channel 4 stated that Bruno Beger was convicted as a war criminal guilty as an accomplice to the murder of 86 Jews by a Frankfurt Court in 1971. However, Mr Croston's submission attempted to misuse the Court record to exonerate him. Channel 4 stated that it provided additional documentation with its second submission which the 1971 Court was not in possession of, and which has come to light in the last 30 years,

about Bruno Beger's activities in 1943. These documents supported and went beyond the points made in the programme.

At the 1971 trial, Bruno Beger repeatedly tried to cover up and lie about his involvement in the Jewish skeleton collection. Channel 4 argued that he knew the 86 prisoners he had selected would be murdered and documents discovered after the 1971 trial show that Bruno Beger had clear motives for conspiring with the murders:

- Channel 4 stated that Bruno Beger had a personal interest in the anthropological research on captive Jewish populations. In 1941 he proposed to the Ahnenerbe that it conduct humiliating anthropological research on Jewish women in ghettos in Poland who he clearly saw as opportunities and potential objects of research.
- According to Channel 4 Bruno Beger had a strong interest in acquiring human skeletal remains for his personal use and volunteered to take part in the plundering of Russian museums and universities for their collections.
- Channel 4 argued that Bruno Beger was a strong anti-Semite and worked in the Race and Settlement Office of the SS which researched, and was the source of, much of the anti-Semitic legislation of the Third Reich. In a letter of April 13 1943, to Himmler's personal assistant, Bruno Beger noted approvingly the SS plan to annihilate the Jews referring to "the complete extermination of the Jews in Europe, and beyond that, in the whole world if possible". He advocated conducting research on characteristics of the Jewish spirit so that even this ephemeral influence could be rubbed out of German life. Furthermore in 1936 he reported his avoidance of social activities where Jews might be present.
- Channel 4 stated that Bruno Beger organised studies on Jewish groups in the USSR to determine if they were suitable candidates for extermination.

Channel 4 argued that Dr Beger did participate as a perpetrator in the initial planning of the Jewish skeleton collection at least as early as 1941 and this was evidenced by a written record concerning a meeting with the managing director of the Ahnenerbe about a "suggestion to get Jewish skulls for anthropological studies...working together with Dr Hirt". Channel 4 noted that most archival documents relating to the Ahnenerbe and Bruno Beger's activities were destroyed shortly before the end of WWII.

Decision

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

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard in all cases, to the

principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

Mr Croston's complaint was considered by Ofcom's Fairness Committee ("the Committee"), Ofcom's most senior decision making body with respect to Fairness and Privacy complaints. The Fairness Committee considered the complaint, the broadcaster's response, subsequent submissions from both parties, and a recording of the programme as broadcast. The Committee also gave careful consideration to all of the copious supporting material provided by both parties including both contemporaneous and historical accounts concerning the expedition and Dr Beger. Although a number of the individual complaints referred to references to the Tibet expedition as a whole and to other individuals who were part of the expedition, Ofcom considered Mr Croston's complaints only in so far as they related to alleged unfair treatment of Dr Beger in the programme as broadcast.

At the time of broadcast and the BSC Fairness Code ("the Fairness Code") was the applicable Code.

In the circumstances of this case the Fairness Committee found the following:

- a) The Fairness Committee considered Mr Croston's complaint that material contained in the programme resulted in unfairness to Dr Beger.

The Committee took account of paragraph 2 of the Fairness Code under which broadcasters have a responsibility to avoid unfairness to individuals featured in programmes in particular through the use of inaccurate information or distortion, for example, by the unfair selection or juxtaposition of material taken out of context. The paragraph further states that broadcasters should avoid creating doubts on the audience's part as to what they are being shown if it could mislead the audience in a way which would be unfair to those featured in the programme.

The Committee considered individually each of Mr Croston's detailed complaints regarding the material contained in the programme and the Committee's full deliberations and individual findings are addressed at head d) below. In relation to the complaint that the material broadcast resulted in unfairness to Dr Beger, the Committee asked itself: whether the reference related to Dr Beger, either directly because he was specifically mentioned or indirectly because it related to the expedition of which he was a member; and, if so, whether the programme makers complied with their obligations to avoid unfairness. As discussed at head d) below the Committee had concerns about Channel 4's sourcing of certain allegations made about Dr Beger (see Complaints 18 and 35 at head d) below). However for the reasons given in the findings concerning complaints 1 to 40 at head d) the Committee found that the material and allegations complained of did not result in unfairness to Dr Beger.

In light of these findings the Committee found that the material contained in the programme as a whole did not result in unfairness to Dr Beger.

- b) The Fairness Committee considered Mr Croston's complaint that the programme adversely affected Dr Beger's reputation.

The Committee took account of paragraph 7 of the Fairness Code which states that broadcasters should take special care when their programmes are capable of adversely affecting the reputation of individuals. The paragraph further states that broadcasters should take all reasonable care to satisfy themselves that all material

facts have been considered before transmission and so far as possible are fairly presented.

The Committee considered individually each of Mr Croston's detailed complaints regarding the material contained in the programme and the Committee's full deliberations and findings are addressed at head d). In relation to the complaint that Dr Beger's reputation was adversely affected by the individual references and allegations made in the programme, the Committee asked itself: if the reference or allegation was found to have related to Dr Beger, directly or indirectly, as discussed at head a), whether the reference was (either on its own or in conjunction with other references) capable of adversely affecting Dr Beger's reputation; and, if so whether the broadcaster took the reasonable care required by the Fairness Code in satisfying itself that all material facts had been considered and so far as possible fairly presented.

As discussed above at head a) the Committee had concerns about the sourcing of particular allegations made about Dr Beger (see Complaints 18 and 35 at head d) below). However as discussed in the final paragraph at head d) below, the Committee found that while material and allegations complained of related to Dr Beger, they were not capable of adversely affecting his reputation given the established facts concerning him. These established facts included his academic background in race studies, his membership of the Nazi Party, his service in the SS, his choice to work in the SS Race and Settlement Office and his conviction, following a war crimes trial in 1971, of being an accomplice to the murder of 86 Jewish people at Natzweiler concentration camp. As discussed in the final paragraph of head d) below, the Committee also noted that while the verdict of the court in 1971 was important it was only one of a number of elements which related to Dr Beger's reputation, as Channel 4 had provided material to show that his knowledge of, and involvement in, Nazi policies have become better known since the trial.

In light of these findings the Committee found that the material contained in the programme as a whole did not adversely affect the reputation of Dr Beger.

- c) The Fairness Committee considered Mr Croston's complaint that Dr Beger was not given an opportunity to contribute to the programme.

The Committee took account of paragraph 11 of the Fairness Code which states that where a programme alleges wrongdoing or incompetence, or contains a damaging critique of an individual or organisation, those criticised should normally be given an appropriate and timely opportunity to respond to or comment on the arguments and evidence contained within that programme.

In light of the findings at heads a) and b) above, namely that although the programme made serious allegations about Dr Beger, it did not result in unfairness to him and did not adversely affect his reputation, the Committee found that the programme did not result in a damaging critique of Dr Beger as referred to in the Fairness Code.

In this context the Committee found that there was no obligation on the broadcaster to offer Dr Beger an opportunity to respond to, or comment on, the arguments and evidence within the programme.

- d) The Committee considered, individually, each of the complaints made by Mr Croston on behalf of Dr Beger which informed its decisions above at heads a) to c).

Complaint 1

The Committee considered Mr Croston's first complaint that the programme unfairly stated the expedition had "*sinister motives*" and thereby adversely affected Dr Beger's reputation.

The Fairness Committee first considered the full reference complained of. The introduction to the programme stated:

"Secret History reveals the sinister motives behind the Nazi Expedition to one of the farthest flung places on earth".

The Committee considered that the reference to the "*sinister motives*" of the expedition indirectly related to Dr Beger since his anthropological measurements were a key part of its work. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation are detailed at Complaint 15. Furthermore, the Committee noted the interview with historian Christopher Hale in the opening of the programme which in the Committee's view set the role of the SS in context. The Committee considered the following statement made by Mr Hale in this interview to be significant: "*Many people see the SS purely as a political organisation, as a genocidal organisation. Sending expeditions to various parts of the world, and in particular to Tibet, was one very important way in which prestige was given and added to the SS.*" In light of these considerations, the Committee found that the description of the expedition as having "*sinister motives*" resulted in no unfairness, given the central role in it of the SS, an organisation underpinned by a belief in racial purity.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 2

The Committee considered Mr Croston's second complaint that the programme unfairly stated that the mission was secret, that there was a "*darker purpose*" to the expedition and that the expedition team was looking for the origin of an Aryan peoples or signs of a vanished "*Master Race*" and thereby adversely affected Dr Beger's reputation.

The Fairness Committee first considered the full commentary reference complained of:

"Five German scientists embark on an extraordinary quest...their official goal is scientific research, zoology and anthropology, but the data they are collecting for the SS is to serve a darker purpose. Their secret mission is to discover the origins of the Aryan peoples. They are to look for signs of a long-vanished master race".

The Committee considered that the reference, to the "*darker purpose*" of the expedition regarding a "*vanished Master Race*" indirectly related to Dr Beger since his anthropological measurements were central to its role. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation are detailed at Complaint 15 and the finding in relation to the use of the term Aryan is detailed at Complaint 20. Furthermore, and in light of

the finding at Complaint 15, the Committee found that the description of the expedition having a “*darker purpose*” resulted in no unfairness given the central role in it of the SS, an organisation underpinned by a belief in racial purity.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 3

The Committee considered Mr Croston’s third complaint that the programme unfairly stated that the expedition attempted to rewrite history and justify change to the future of the world thereby adversely affecting Dr Beger’s reputation.

The Fairness Committee first considered the full commentary reference complained of:

“This is the zenith of Nazi attempts to rewrite history: a new past would justify their right to change the future of the world”.

The Committee considered that the references to the expedition’s attempts to “*re-write history*” and change “*the future of the world*” indirectly related to Dr Beger since his anthropological measurements were central to its role. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee’s findings in relation to the expedition’s motivation are detailed at Complaint 15. Furthermore, and in light of the finding at Complaint 15, the Committee considered that the description of the expedition attempting to “*re-write history*” and justify changing “*the future of the world*” was fair given the central role in it of the SS, an organisation underpinned by a belief in racial purity. The Committee had some reservations over the description of the expedition as the ‘zenith’ of Nazi attempts to re-write history since this did not appear to the Committee to be supported by material submitted in relation to the wider context of this period. However the Committee also noted the connection between the expedition and the Ahnenerbe, the ancestral heritage foundation set up by the leader of the SS, Heinrich Himmler discussed below at Complaint 5. In light of these considerations the Committee reached the view that the programme’s portrayal of the expedition as part of a process which attempted to re-write history, did not result in any unfair treatment of Dr Beger.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 4

The Committee considered Mr Croston’s next complaint that the expedition was not an official German one, as unfairly stated by the programme, but privately run and that the programme unfairly implied that it was a search for “*the true cradle of the Aryan race*” when this allegation was unfounded.

The Fairness Committee first considered the full commentary references:

“Here [Tibet], according to SS dogma, survivors of the last cosmic catastrophe took shelter – this is the true cradle of the Aryan race...Now it [Tibet] is to become the destination of the first ever official German expedition to the very roof of the world”.

The Committee considered that the references, both to the “*official German expedition*” and its connection to the “*true cradle of the Aryan race*” indirectly related to Dr Beger as a key member of the expedition. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee considered the supporting material concerning the reference to the expedition being “*official*”. The Committee noted the reference, in supplementary material supplied with Channel 4’s response, to a letter quoted in Heather Pringle’s book *The Master Plan*, in which the expedition’s leader Ernst Schaefer wrote to Himmler “we weigh anchor as an SS expedition”. The Committee noted the references to the expedition’s status and funding in supplementary material supplied with Mr Croston’s submission.

The Committee also considered supplementary material provided by Mr Croston. In *Asiatische Studien Etudes Asiatiques* (January 2004), Isrun Engelhardt noted that Himmler insisted that the expedition’s name was changed from “Schaefer Expedition 1938/9” to “German Tibet Expedition Ernst Schafer, under the patronage of the Reichsfuehrer-SS Himmler and in connection with the Ahnenerbe”. In the same article Isrun Engelhardt referred to German business paying a majority of the costs and stated “the final statement dated 17 November 1940 shows that the Public Relations and Advertising Council of German Business bore the majority of the costs.” The Committee also noted that *The Times* of 28 July 1938, also provided by Mr Croston, referred to the contemporary perception of the expedition as “undertaken by members of the SS...under the patronage of Herr Himmler”. Taking each of these factors into account, the Committee found that the reference to the “official German expedition” resulted in no unfairness to Dr Beger.

The Committee’s findings in relation to the expedition’s motivation are detailed at Complaint 15 and the finding in relation to the use of the term Aryan is detailed at Complaint 20. In light of the findings at Complaint 15 and 20, the Committee considered that the description of the SS view of Tibet as “*the true cradle of the Aryan race*” also resulted in no unfairness to Dr Beger.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 5

The Committee considered Mr Croston’s fifth complaint that the expedition was not undertaken courtesy of the Ahnenerbe foundation nor sponsored by the SS as unfairly stated by the programme. Rather, Mr Croston stated, it was financed independently of Himmler and the Ahnenerbe foundation although the political support from both was required to obtain foreign currency and passports.

The Committee considered the full commentary complained of:

“He [Ernst Schaefer the expedition leader] recognises his chance to reach Tibet courtesy of the Ahnenerbe, the SS foundation to research ancestral heritage.”

The Committee considered that the reference to the expedition being courtesy of the Ahnenerbe indirectly related to Dr Beger as a key member of the expedition. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In the Committee’s view the programme did not claim that the Ahnenerbe foundation financed the

expedition, indeed the Committee noted that the next piece of commentary stated: *“Industrialists fund the costs of the project generously”*. The Committee noted that the association between the expedition and the Ahnenerbe was recognised by Mr Croston whose complaint acknowledged that political support from the Ahnenerbe was required by the expedition. Furthermore, the supporting material to Mr Croston’s complaint recognised the connection with the Ahnenerbe as discussed above at Complaint 4. Given the documented connection between the expedition and the Ahnenerbe, the Committee found that no unfairness to Dr Beger resulted from the programme describing the expedition as being conducted “courtesy” of the Ahnenerbe.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 6

The Committee considered Mr Croston’s sixth complaint that the programme’s statement that the expedition did not have entry visas was unfair since they did have permission to travel to India.

The Committee considered the full commentary complained of:

“Schaefer’s team sets out without entry visas, gambling on German political pressure to get them through.”

The Committee considered that the reference to the expedition not having entry visas indirectly related to Dr Beger as a member of the expedition. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted that Mr Croston did not dispute that the expedition did not have entry visas for Tibet and found that it was fair for the programme to include this reference in the commentary regardless of other permission to travel they may have gained.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 7

The Committee considered Mr Croston’s next complaint that the programme’s statement that British authorities in India were ‘wary’ as German scientific expeditions were used as cover to foment uprisings unfairly implied that they were suspicious of the Schaefer expedition.

The Committee considered the full commentary complained of:

“They [the expedition members] plan to travel via Northern India to Tibet. In India the British have every reason to be wary. German expeditions have been used before as cover to launch uprisings.”

As a member of the expedition the Committee considered that the reference to British wariness indirectly related to Dr Beger. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted that Channel 4 based this reference on historical material, and in particular Peter Hopkirk’s book *Like Hidden Fire: the*

Plot to Bring Down the British Empire and argued that from World War I onwards the British had colonial anxieties concerning German expeditions. Given this particular climate, the Committee considered this commentary line was not unfounded and therefore resulted in no unfairness to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 8

The Committee considered Mr Croston's eighth complaint that the invasion of Czechoslovakia was unfairly referred to out of chronological order when in fact it did not occur until the expedition was actually in Tibet.

The Committee considered the full commentary reference complained of:

"The British government acquiesces [to the expedition crossing British India]: they won't act over Hitler's rearmament or his invasion of Czechoslovakia. The climate of appeasement is of decisive importance for Ernst Schaefer's Tibet expedition".

The Committee considered that the reference to the expedition indirectly related to Dr Beger as an expedition member. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In the Committee's view the commentary served only to set the expedition within the climate of appeasement, and did not seek to date Germany's invasion of Czechoslovakia in relation to it. The Committee therefore found that the reference was not unfair.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 9

The Committee considered Mr Croston's next complaint that the references to: science in 1938 Nazi Germany; the influence on science of totalitarian governments; and, the scientists involved, unfairly implied that the members of the Tibet expedition, including Dr Beger, were involved in harmful activity when this was not the case and that Dr Beger's reputation was again adversely affected.

The Committee considered the full section of interview with historian Christopher Hale, complained of and the commentary which preceded it:

Commentary: "The young SS officers [on the Tibet expedition] are all scientists in the pay of the state: Ernst Krause, botanist; Bruno Beger, anthropologist; Karl Wienert, geographer."

Interview: "It really was a cross section of science in 1938 in Nazi Germany. And it shows what happens to science under a totalitarian government, what happens to the people who do science under a totalitarian government, and what happens to them when the totalitarian nature of that government becomes real and apparent."

The Committee considered that the section of interview from Christopher Hale implied corruption of the scientists, listed in the preceding commentary, because of their association with a totalitarian government. In the Committee's view the reference to the effects of working under a totalitarian regime directly related to Dr Beger who was named in this context. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In relation to Dr Beger's work as an anthropologist in Nazi Germany, the Committee found this comment resulted in no unfairness since his work was underpinned by his membership of, and the expedition's involvement with, the SS which was clearly linked to the totalitarian Nazi regime.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 10

The Committee considered Mr Croston's tenth complaint that the quotation from the expedition's leader Ernst Schaefer that the goals of SS ideology and research are the same was unfairly taken out of chronological order, when in fact the statement was made five years after the Tibet expedition and had no connection with it.

The Committee considered the full commentary complained of:

"Their [the expedition's] ornithologist and leader knows exactly what Himmler wants to hear. Schaefer announces that the goals of SS ideology and research are the same."

The Committee found that the reference to Ernst Schaefer's statement indirectly related to Dr Beger who was part of Ernst Schaefer's expedition team. The Committee noted that Mr Croston did not dispute that Ernst Schaefer said that the goals of SS ideology and research were the same, but disputed only the timing of it. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In the Committee's view the fact that the statement was made some time after the Tibet expedition did not alter its relevance to the programme and to the context in which the programme makers sought to place the expedition. The Committee therefore found the reference resulted in no unfairness to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 11

The Committee considered Mr Croston's next complaint that the claim that Ernst Schaefer's private intention was to practise hunting and collecting rare plants and animals was unfair as it was a publicly stated aim from the start.

The Committee considered the full commentary complained of:

"Privately Schaefer sees Tibet as the place to practice his passion for hunting – collecting rare plants and animals."

The Committee considered that this reference to Ernst Schaefer's private activities did not relate to Dr Beger who was neither mentioned nor connected with it. In

any event the Committee found that it was reasonable for the broadcasters to have made the reference in that it was supported by material provided with Mr Croston's submission. In *Asiatische Studien Etudes Asiatiques* (January 2004) Isrun Engelhardt quoted from a letter to Ernst Schaefer from the Tibetan government in which permission to go to Lhasa was contingent on him consenting "to not hunt any birds or game which would deeply hurt the feelings of the Tibetan people." However the commentary to the expedition film *Geheimnis Tibet*, also provided by the complainant, described the expedition members creating a "zoological laboratory" in Tibet where "skulls were dried; bird carcasses preserved; and the great collections organised."

The Committee did not consider the complaint in relation to Dr Beger's reputation since the Committee found that the reference did not directly relate to him.

Complaint 12

The Committee considered Mr Croston's next complaint that the programme used archive of the expedition film unfairly, wrongly translated the film's commentary regarding Tibetan mythology and incorrectly attributed the filming to Tibet when it was filmed in Sikkim.

The Committee found that since the commentary over this section of footage referred only to the expedition's leader Ernst Schaefer and his fascination with the Tibetan's "*magical world*", the footage complained of did not relate to Dr Beger since he was neither mentioned nor associated with it.

In any event the Committee noted that the footage referred to the Tibetan people and therefore clearly implied that the footage was of Tibet; and, Channel 4 conceded in its response that the footage was from neighbouring Sikkim. However in the Committee's view although it would have been preferable for the footage to have been identified in the programme as originating from Sikkim, Channel 4 provided evidence of the strong correspondence between religious cultures in Sikkim and Tibet which supported its use.

The Committee did not consider the complaint in relation to Dr Beger's reputation since the Committee found that the archive footage and commentary over it did not directly affect him.

Complaint 13

The Committee considered Mr Croston's next complaint that the analogy between the skull and cross bones of Tibetan culture and the SS was unfair.

The Committee considered the commentary complained of:

"The [Tibetan] skull and crossbones is a representation of absolute power over life and death as worn on every SS cap."

The Committee considered that as a member of the SS the reference indirectly related to Dr Beger. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted that Channel 4's response related to the symbol of the swastika, which in the Committee's view was not relevant to Mr Croston's complaint which concerned the programme's reference to the skull and

crossbones. Furthermore the Committee noted that, as shown in the programme's use of footage of an SS cap, the SS emblem was of a skull only, not the skull and crossbones referred to in the programme. Given the historical record of the SS, the Committee considered that it was not misleading to suggest that the SS, of which Dr Beger was a member, had absolute power over life and death. The Committee found that the reference did not therefore result in unfair treatment of Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 14

The Committee then turned to Mr Croston's complaint that the programme unfairly implied that the expedition was expected to reach Lhasa by their sponsor(s) when in fact this was not the stated original aim.

The Committee considered the full commentary reference complained of:

"Now the expedition must live up to its sponsor's expectations. For the five men are hoping to fulfil a great dream: to reach Lhasa, the legendary capital of Tibet."

The Committee found that the reference, to the expedition "hoping to reach Lhasa" indirectly related to Dr Beger as a member of it. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's aims are detailed at Complaint 15. Furthermore, and in light of the finding at Complaint 15, the Committee considered that the description of the expedition aiming to "reach Lhasa" was fair. In supporting material supplied with Mr Croston's submission, *Asiatische Studien Etudes Asiatiques* (January 2004), Isrun Engelhardt stated "Schaefer, who was under enormous pressure to deliver a spectacular success to his country, grasped the unique historical opportunity of paying an official visit to the forbidden city and making Lhasa itself his destination." Taking this into account, the Committee found the reference was not misleading and resulted in no unfairness to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 15

The Committee considered Mr Croston's fifteenth complaint (which is referred to in a number of complaints above and below) that the programme unfairly stated that neither Dr Beger nor the expedition ever had as an aim the collection of evidence of common German-Tibetan roots.

The Committee first considered the full commentary reference complained of:

"The SS officers have not forgotten their primary mission: to collect evidence of common German-Tibetan roots."

The Committee considered that the reference, to the primary mission of the expedition being to collect evidence of common German-Tibetan roots, indirectly related to Dr Beger, as key member of the expedition in relation to anthropology.

The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger.

The Committee considered documentary evidence provided by both parties, which referred to the anthropological purpose of the expedition including the following:

(i) In the supplementary material supplied with Mr Croston's submission, *Asiatische Studien Etudes Asiatiques* (January 2004), Isrun Engelhardt quoted from Bruno Beger's research proposal for the expedition:

"It is now the anthropologist's task to conduct research into current ethnological conditions by means of measurements, research into characteristics, photographing and taking casts (using Poller's method), particularly concentrating on collecting material on the proportion of, population, the origins, significance and development of the Nordic race in this region [Tibet]."

(ii) In the same article Isrun Engelhardt linked Dr Beger's proposal back to his teacher Hans F.K Gunther and his interest in whether "traces of Indo-Europeans existed in Central Asia" but went on to observe that "the search for the remains of Nordic immigrants did not play a further role."

(iii) Ernst Schaefer, writing in 1943, stated: "In addition to categorising the research area in terms of ethnology and racial science and gathering a highly comprehensive collection of ethnological items...one of our tasks was to develop a clear picture of the racial compositions of the human races that had infiltrated from other habitats."

The Committee considered that, on the basis of the evidence before it, Channel 4 provided a credible source for its claim regarding the "primary" mission of the expedition as evidenced by Dr Beger's research proposal concerning research into the origins of "the Nordic race" in the region of Tibet at (i) above, and supported by Ernst Schaefer's writing at (iii) above. In the Committee's view further material relating to the subsequent work of the expedition at (ii) above was not relevant to discussion of the "primary" mission or purpose.

The Committee also considered that it was appropriate to consider the programme's contention concerning the expedition's primary mission within the context of wider SS motivation. The Committee noted that the expedition was staffed by SS officers, under the patronage of Himmler, and that supporting material from the complainant stated that Dr Beger's findings were to be published on racial lines. A "Memo to SS-Obersturmfuhrer Dr Weinert for discussion with SS-Obersturmfuhrer Dr Beger" of 29 October 1940 concluded its directions for the ordering of Dr Beger's findings by noting "The anthropological exploration of Inner-Asia in its importance for the larger connection with the race history of Europe."

In the Committee's view the collection of evidence of common German-Tibetan roots was arguably 'an' aim rather than 'the' aim of the expedition; however in light of the above considerations, the Committee found that on balance, the description of it as the "primary mission" would not have misled the audience in a way that resulted in unfairness to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 16

The Committee next considered Mr Croston's complaint that the programme unfairly included the statement that Dr Beger was committed to the ideology of racial superiority and that Dr Beger's reputation was thereby adversely affected.

The Committee considered the full commentary section of interview, from historian Christopher Hale, complained of:

"Bruno Beger was the expedition's anthropologist. He was a member of the SS and he was fascinated by race theory: how you find out the differences between different races; and, in his view, what made a particular race superior or inferior. He was fully committed to this ideology and intended to pursue that scientifically by travelling to Tibet."

The Committee considered that the references, which named Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In the Committee's view, given the overall context of evidence concerning Dr Beger's: known membership of and commitment to the SS; his academic background; his choice to work in the SS Race and Settlement Office; and, his proven involvement in subsequent events which led to his conviction as an accomplice to the murder of 86 Jewish people at Natzweiler concentration camp; the statement that he was committed to the ideology of racial superiority was not unreasonable. In the Committee's view given this wider context, and in light of the finding at Complaint 15, the audience was not likely to have been misled as a result of attributing this motivation to Dr Beger's research in Tibet. Consequently, the Committee found no unfairness to Dr Beger in this respect.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 17

The Committee considered Mr Croston's seventeenth complaint that the programme unfairly stated that Dr Beger offered free medical treatment to recruit volunteers to be measured for his anthropological studies when in fact he offered this treatment regardless of any involvement in the studies.

The Committee first considered the full commentary reference complained of:

"To recruit volunteers for his studies, the SS man [Dr Beger] offers free medical treatment"

The Committee considered that the reference, which referred to Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted the description in Heather Pringle's book *The Master Plan* provided in support of Channel 4's submission "He [Dr Beger] soon learned that offering medical assistance was the surest way of winning the confidence" after which he would "begin taking measurements of the local inhabitants". In the Committee's view this was supported by the extract from Dr Beger's own writing

provided by Channel 4. In *Mit der Deutschen Tibet expedition Ernst Schaefer 1938/9 nach Lhasa* he stated: "I had to earn the trust of these people. And our medicine chest gave us the tools for this." The Committee therefore found the commentary line to be properly supported and not to result in unfair treatment of Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 18

The Committee turned to Mr Croston's next complaint that the programme unfairly stated that: "*At home, he [Dr Beger] has drawn up criteria for forcible sterilisation to eliminate 'unworthy life'*" when there was no evidence for this claim and it was unsubstantiated by original documents. Mr Croston stated that this was one of the two most serious allegations made in the programme.

The Committee first considered the full commentary reference complained of:

"At home, he [Dr Beger] has drawn up criteria for forcible sterilisation to eliminate 'unworthy life'."

The Committee considered that the reference, which referred to Dr Beger, directly related to him and furthermore that the allegation was particularly serious. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger.

The Committee noted that the source for this allegation was ascribed in Channel 4's response to the authors Victor and Victoria Trimondi in their book *Hitler, Buddha, Krishna* (Ueberreuter, 2002) who stated "His [Dr Beger's] area of expertise also included the development of criteria for sterilisation, castration and abortion programmes, designed to prevent 'unworthy life'".

The Committee also noted that according to supporting material provided by Mr Croston, Dr Beger endorsed the Lebensborn project which he described in 1937 as an association "which has the purpose to house and care for pregnant women of whom a thorough examination of the family...has shown that hereditary-biologically valuable children will be born." The Committee noted that Channel 4 referred, in support of its allegation concerning forcible sterilisation, to a report in which it stated Dr Beger had written that "The role model for selection, the breeding aim of our people and its pioneer the SS, is the Nordic race". The Committee also considered evidence of Dr Beger's work for the SS Race and Settlement Office.

Notwithstanding the broader supporting material discussed above, the Committee had serious concerns that in relation to the particular allegation that: "*At home, he [Dr Beger] has drawn up criteria for forcible sterilisation to eliminate 'unworthy life'*", and given the seriousness of this allegation, Channel 4 relied on a single secondary source, namely the book by Victor and Victoria Trimondi. The Committee noted that in its response to the complaint Channel 4 provided the full extract from the Trimondi book from which this allegation was taken. In this extract Victor and Victoria Trimondi preceded and followed the allegation with quotations from Dr Beger's own reports regarding the work of the SS and its "breeding" aims. The Committee noted that the allegation itself was not supported by any primary evidence.

However, it was the Committee's view that in its consideration of whether this allegation could have misled the audience in a way that was unfair to Dr Beger, this complaint could not be considered in isolation from Dr Beger's wider reputation. The Committee took account of paragraph 7 of the Broadcasting Code which states that: "Broadcasters should take special care when their programmes are capable of adversely affecting the reputation of individuals." In relation to Dr Beger's reputation, the Committee found that the reference to any role in plans for forcible sterilisation, albeit an extremely serious allegation, was not capable of adversely affecting Dr Beger's reputation given the established facts concerning him. These established facts included his academic background in race studies, his membership of the Nazi Party, his service in the SS, his choice to work in the SS Race and Settlement Office and his conviction, following a war crimes trial in 1971, of being an accomplice to the murder of 86 Jewish people at Natzweiler concentration camp. The Committee also noted evidence which had come to light since this trial, as discussed in the final paragraph of head d) below. The Committee therefore found, in light of these considerations, that the allegation was not likely to have misled the audience in a way that resulted in unfairness to Dr Beger.

Complaint 19

The Committee turned to Mr Croston's next complaint that the programme's reference to Dr Beger's fascination with death linked to his observations of a sky burial unfairly implied that he had unworthy motives in Tibet.

The Committee first considered the full commentary line complained of:

"Beger is fascinated by death in Tibet. He witnesses a sky burial."

The Committee considered that the reference, which referred to Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted that the reference was followed by quotations from Dr Beger himself: *"On the bare rock face lay three naked female corpses tied to boulders...In no time at all the corpses lay dismembered and trampled...That...was one of the most impressive experiences offered to us by our visit to mysterious Tibet."*

In the Committee's view these quotations supported the commentary's references to Dr Beger witnessing a 'sky burial' and being fascinated by it, but did not ascribe wider motivation to him, and resulted in no unfairness to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 20

The Committee then considered Mr Croston's complaint that the programme unfairly stated Dr Beger was looking for signs of 'Aryans' in the Tibetan people.

The Committee first considered the full commentary reference complained of:

"Beger is...to search for signs of the Aryans among their [the Tibetans] proportions".

The Committee considered that the reference to searching “for signs of the Aryans” directly related to Dr Beger, since this motivation was directly attributed to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee’s findings in relation to the motivation of the expedition, including Dr Beger, are detailed at Complaint 15. Furthermore, and in light of the finding at Complaint 15, the Committee considered that the description of the expedition looking for signs of ‘Aryans’ among the Tibetan people resulted in no unfairness to Dr Beger given the central role in it of the SS, an organisation underpinned by a belief in racial purity. The Committee noted that Dr Beger’s work *The race picture of the Tibetan in its positioning to the Mongolide and Europide race groups/circles (1944)* provided by Mr Croston discussed “europid types” and “nordic race” elements, which were associated with “blue eyes” and “dark-blond hair”, among the Tibetan people he studied. The Committee considered that the programme, which at times used the term ‘Aryan’, at times ‘German-Tibetan’ in relation to Dr Beger’s studies in Tibet, sought to use references which would enable the viewer easily to understand the ideological under-pinning of the expedition and did so in a way which was not misleading to the audience and was therefore not unfair to Dr Beger.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 21

The Committee considered Mr Croston’s next complaint that the programme unfairly suggested that Dr Beger made 200 facial casts when in fact he only made 16.

The Committee noted the full commentary reference:

“His method [as an anthropologist] also entails making facial casts for later comparison. More than 200 subjects are recorded.”

The Committee considered that the reference, which referred to Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted that Channel 4 acknowledged, in their response to the complaint, that only 16 casts were made and stated that the factual mistake had been corrected. The Committee found that although the reference was, by Channel 4’s own admission, inaccurate it was not likely that the reference would have materially affected the viewer’s understanding of Dr Beger and did not therefore result in unfair treatment of him.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 22

The Committee considered Mr Croston’s next complaint that the programme unfairly stated that the Tibetans were part of an experiment that would lead to mass murder since in fact they were part of no experiment and there was no link between the expedition and Dr Beger’s subsequent involvement in a programme that led to the murder of 86 prisoners.

The Committee considered the full commentary line complained of:

“They [Dr Beger’s Tibetan subjects] little suspect that they are taking part in a scientific experiment that will end in mass-murder.”

The Committee considered that this commentary line, which was linked to Dr Beger by the commentary reference immediately preceding it (discussed at Complaint 21 above), directly related to Dr Beger. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In the Committee’s view the programme had deliberately chosen to describe Dr Beger’s field research in Tibet with the emotive description of it as *“a scientific experiment”* in order to reinforce the link to subsequent events at Auschwitz concentration camp. However the Committee noted the description in the supporting material provided by Mr Croston, namely the transcript of the expedition film *Secret Tibet*, of Dr Beger’s role as *“our race expert”*. The Committee also noted the reference in the court transcript of the verdict of Dr Beger’s trial in 1971 which linked the Tibet research to his activities at Auschwitz and stated: *“he wanted ‘in passing’ to supplement his Tibet material”*. The Committee therefore was of the view that the commentary line was not likely to have misled the audience in a way that would be unfair to Dr Beger. Consequently, no unfairness resulted from the programme linking Dr Beger’s research in Tibet with subsequent events at Auschwitz.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaints 23, 24 & 25

The Committee next turned to Mr Croston’s complaints that the programme unfairly stated that Dr Beger, and the expedition, had as an objective the goal of finding physical proof that the Nazis were descended from a pure Aryan type.

The Committee first considered the full references complained of:

Complaint 23 (commentary): *“The Nazi ideal of a pure Aryan type from which they descend was supported by the German science of the day. The 1938 expedition is to find physical proof.”*

Complaint 24 (comment by interviewee historian Christopher Hale): *“It seems at first to be completely absurd that you would look for the relatives of Aryans...in the middle of Asia, especially on the roof of the world, in the middle of Tibet. But this is what the Tibet Expedition was going to do. It was going to find connections between these peoples who seemed so different.”*

Complaint 25 (commentary): *“They [Tibetan nobles] are supposed to preserve Aryan heritage at its most pure”.*

The Committee considered that the references, which each related to the purpose of the expedition in relation to an attempt to discover descent from a pure Aryan type, indirectly related to Dr Beger since his anthropological measurements were a key part of the expedition’s role and purpose. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee’s findings in relation to the expedition’s motivation are detailed at Complaint 15 and the finding

in relation to the use of the term Aryan is detailed at Complaint 20. Furthermore, and in light of the findings at Complaints 15 and 20, the Committee considered that the descriptions of the expedition attempting to “*find physical proof*” of descent from a pure Aryan type, resulted in no unfair treatment of Dr Beger given the central role in the expedition of the SS, an organisation underpinned by a belief in racial purity.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 26

The programme unfairly used the emotive term ‘victim’ to refer to a person having a cast made of his head when he was not deliberately and intentionally injured. This was unfair to Dr Beger and implied he had unworthy motives in Tibet.

The Committee considered the full commentary reference complained of:

“His [Beger’s facial] cast-making risks the whole expedition. On his first attempt, he omits straws to breathe through. The victim has a panic attack and narrowly escapes death by suffocation.”

The Committee considered that the reference, which referred to Dr Beger’s work, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted supporting material provided by Channel 4, namely extracts from Heather Pringle’s book *The Master Plan* in which she described an account of Dr Beger applying the paste to the face of his Nepalese Sherpa who was panic-stricken and clawed at the mask “as if he was possessed by the devil”. The Committee noted that this extract was a secondary source, but considered it was supported by documentation provided by the complainant. The transcript of the expedition film *Secret Tibet* provided by Mr Croston described Dr Beger’s work, and the application of a paste being applied to the face in order to obtain a mask. It stated “In such moments of helpless darkness however the ancient terror of the demons falls like a nightmare on the naive native”. In the Committee’s view although it may not have been Dr Beger’s intention that the subject referred to in the programme became a ‘victim’, nevertheless in light of the supporting documentation this term did not appear to be wholly inappropriate. The Committee therefore did not consider it was likely to have misled the audience in a way that was unfair to Dr Beger.

The Committee’s findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Complaint 27

The Committee turned to Mr Croston’s twenty seventh complaint that the programme unfairly stated Dr Beger believed that his collection of casts concealed the characteristics of the Aryan super race.

The Committee considered the full commentary reference:

“Beger eventually produces a collection of Tibetan heads. Faces, he believes, conceal the characteristics of the Aryan super race”.

The Committee considered that the reference, which referred to Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation are detailed at Complaint 15 and the finding in relation to the use of the term Aryan is detailed at Complaint 20. In light of the findings at Complaints 15 and 20, the Committee considered that the description of Dr Beger's belief concerning the collection of casts was not unfair to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 28

The Committee then considered Mr Croston's complaint that the programme unfairly referred to Dr Beger using the "*mathematics of the Master Race*".

The Committee considered the full comment by interviewee historian Christopher Hale on Dr Beger processing the measurements taken of his Tibetan subjects:

"For Beger it came down to mathematics. It was really the mathematics of the master race."

The Committee considered that the reference, to the "*mathematics of the master race*" directly related to Dr Beger since it referred directly to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation and practices are detailed at Complaint 15. Furthermore, the Committee considered that commentary immediately preceding the segment of interview complained of, appropriately placed it in context by stating "*Beger uses the standard objective methods of German anthropology*". In light of these considerations the Committee found that no unfairness resulted from this reference.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 29

The Committee turned to Mr Croston's next complaint that the programme unfairly referred to the invasion of Poland out of chronological order when in fact Poland was not attacked until after the expedition returned to Germany.

The Committee first considered the full commentary reference:

"In September 1939, 50 German divisions attack Poland. The Second World War begins."

The Committee considered that although the reference to the invasion of Poland was mentioned immediately prior to a commentary reference concerning the return of the expedition (discussed at Complaint 30), it did not relate to Dr Beger since he was neither mentioned in, nor associated with, the reference.

The Committee did not consider the complaint in relation to Dr Beger's reputation since the Committee found that the archive footage and commentary over it did not directly relate to him.

Complaint 30

The Committee considered Mr Croston's next complaint that the programme unfairly stated that "Himmler recalls his men" when in fact the expedition's leader was advised to return to Germany by his father and the expedition team was not under the orders or control of Himmler.

The Committee noted the full commentary reference:

"Himmler recalls his men: the return of the German Tibetan expedition is a triumph."

The Committee considered that the reference indirectly related to Dr Beger since he was one of the men referred to. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee could not determine whether the expedition had been advised to return to Germany by Ernst Schaefer's father rather than by Himmler. However the Committee noted supporting material including a cutting from *The Times* dated 31 July 1939 which referred to the expedition as "under the patronage of Herr Himmler" and an article by Ernst Schaefer from the magazine *Atlantis* date October 1939. This article had the sub-heading "von Dr Ernst Schaefer Leiter der SS-Tibet-Expedition" [by Dr Ernst Schaefer Leader of the SS-Tibet-Expedition] linking the expedition to the SS and, thereby, to its head Heinrich Himmler. In the Committee's view, in light of the supporting material no unfair treatment of Dr Beger resulted from either the reference to "his [Himmler's] men" nor from the reference to Himmler recalling them.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 31

The Committee turned to Mr Croston's complaint that the programme unfairly stated that the knowledge acquired by the expedition was used to feed divisive and elitist racial theories propounded by the SS and that Dr Beger's reputation was thereby adversely affected.

The Committee noted the full commentary reference:

"The knowledge they [the Tibet expedition members] have acquired will feed the divisive and elitist racial theories propounded by the SS."

The Committee considered that the reference indirectly related to Dr Beger since he was one of the expedition members referred to. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. As discussed at Complaint 22, the Committee noted the reference in the court transcript of the verdict of Dr Beger's trial in 1971 which linked the Tibet research to his activities at Auschwitz and stated: "he wanted 'in passing' to supplement his Tibet material". In the Committee's view the commentary reference, as it related to Dr Beger, was supported by the court transcript and further supported by Dr Beger's known membership of the SS

where his work was underpinned by its racial theories. The Committee therefore found that no unfairness resulted from this reference.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 32

The Committee turned to Mr Croston's thirty-second complaint that the programme unfairly claimed that the footage of the Tibetan expedition was turned into a propaganda film *Secret Tibet*, and that the claims about parallels between German and Tibetan society were not made in *Secret Tibet* which is recognised today as an expedition travelogue.

The Committee considered the commentary reference complained of:

"Over the next three years Schaefer and Krause work on the footage they brought back. The account of the expedition is turned into Secret Tibet, the propaganda story of a warrior nation that allowed itself to be weakened and corrupted by religion: the parallel with Judeo-Christianity would not be lost on the German audience."

The Committee considered that since the references to the film *Secret Tibet*, and the particular members of the expedition team who worked on it, did not mention Dr Beger or in any way associate it with him, this reference did not relate to him. In any event the Committee noted Channel 4's evidence concerning the film being targeted at a German audience in 1940's Nazi Germany, and considered that it could reasonably be referred to as a "*propaganda story*" given Nazi control of the German film industry at that time.

The Committee did not consider the complaint in relation to Dr Beger's reputation since the Committee found that the references to *Secret Tibet* did not directly affect him.

Complaint 33

The Committee considered Mr Croston's complaint that the programme unfairly referred to the Tibet expedition having looked for traces of Aryan heritage when this was not the case.

The Committee considered the full commentary reference complained of:

"Just as in Tibet, scientists from the Ahnenerbe are looking for traces of Aryan-Germanic traditions."

As discussed at Complaint 15 above, the Committee found that the reference back to the purpose of the expedition indirectly related to Dr Beger since his anthropological measurements were a key part of its role. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation are detailed at Complaint 15 and the finding in relation to the use of the term Aryan is detailed at Complaint 20. In light of these findings this reference was found not to be unfair to Dr Beger.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 34

The Committee considered Mr Croston's next complaint that the programme unfairly stated that Dr Beger compared his Tibetan measurements with other races and with "*data derived from death*" when neither was the case and that Dr Beger's reputation was thereby adversely affected.

The Committee considered the full commentary reference:

"He [Beger] decides to compare the Tibetan measurements with other races – with data derived from death."

The Committee considered that the reference directly related to Dr Beger since he was referred to. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. As discussed at Complaint 22 the Committee noted the reference in the court transcript of the verdict of Dr Beger's trial in 1971 which linked the Tibet research to his activities at Auschwitz and stated: "he wanted 'in passing' to supplement his Tibet material". In the Committee's view the commentary reference, which linked Dr Beger's Tibetan research with subsequent events at Auschwitz, was supported by the court transcript and, given Dr Beger's subsequent conviction as an accomplice to murder, no unfairness resulted from the description of "*data derived from death*".

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 35

The Committee considered Mr Croston's thirty-fifth complaint that the programme unfairly stated: "*Hitler orders his soldiers to shoot the Jewish Commissars of the Red Army on sight. Beger intends to study their skulls to be sent back to Germany for his anatomy collection*" which Mr Croston stated was one of the two most serious allegations made in the programme. Mr Croston stated that at Dr Beger's trial in 1971 the judge stated that Dr Beger could not have been the author of the document "Securing the skulls of Jewish-Bolshevist Commissars". Mr Croston argued it was therefore not the case that Dr Beger intended to have the skulls sent to him, this was a programme proposed by a Mr Hirt and never carried out. Mr Croston complained that Dr Beger's reputation was again adversely affected.

The Committee considered the full commentary reference complained of:

"Hitler orders his soldiers to shoot the Jewish Commissars of the Red Army on sight. Beger intends to study their skulls, to be sent back to Germany for his anatomy collection."

The Committee considered that the reference, which referred to Dr Beger, directly related to him and furthermore that the allegation was particularly serious. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger.

The Committee noted Channel 4's response to the complaint, namely that the letter recommending the collection of the skulls of 'Jewish-Bolshevik Commissars' murdered on the eastern front was almost certainly written by Bruno Beger. The Committee had some concerns that the programme makers relied on a letter of arguable authorship in support of the allegation regarding the link between Dr Beger and the proposed collection of skulls of 'Jewish-Bolshevik Commissars'. However the Committee noted that the full supporting material provided a thread, running through from the plan to collect the skulls of Jewish Commissars to the subsequent collection of Jewish skeletons. In the Committee's view, the authorship of the letter was not therefore relevant. Given Dr Beger's subsequent proven role in selecting Jewish prisoners at Auschwitz, the Committee considered that the reference to his intention to study the commissars' skulls was unlikely to have misled viewers. The Committee also noted that the programme made clear in subsequent commentary that the plans regarding this skull collection were never actually carried out. Therefore, whether or not he intended to study the skulls, the reference did not result in unfairness to him.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 36

The Committee next turned to Mr Croston's complaint that the programme unfairly implied that Dr Beger selected over 100 Auschwitz prisoners to be killed when in fact he selected them for anthropological measurements only. Mr Croston stated that subsequently others were found guilty of the murder of the prisoners, but Beger was found guilty only as an accomplice to murder.

The Committee considered the full commentary line complained of:

"In Auschwitz he selects over a hundred prisoners. They will be sacrificed for the sake of scientific comparison."

The Committee considered that the reference, which referred to Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee noted the court transcript of the verdict of Dr Beger's trial in 1971 which stated that letters to Dr Beger from colleagues regarding the skeleton collection never spoke of the collection directly but did speak of "examinations" and "selection". In the Committee's view the commentary fairly reflected the verdict of the court which tried Dr Beger, when it stated that Dr Beger "*selects over a hundred prisoners*". Furthermore the Committee noted that the description that the prisoners will be sacrificed "*for the sake of scientific comparison*" was reflected in Mr Croston's admission that Dr Beger selected prisoners for anthropological measurements. In the Committee's view neither element of this section of commentary attributed the killing of the prisoners to Dr Beger. The Committee therefore found that the two statements regarding the selection and sacrifice of prisoners were not misleading and therefore resulted in no unfairness to Dr Beger either separately or in conjunction.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 37

The Committee next considered Mr Croston's complaint that the programme unfairly stated that to Dr Beger the prisoners were the antithesis of the Aryans who he had been looking for in Tibet.

The Committee considered the full comment by the interviewee historian Christopher Hale:

"In a sense for him and for the Nazis, these [the prisoners selected at Auschwitz] were the antithesis of the Aryans who he had been looking for in Tibet."

The Committee found that the reference, to the Jewish prisoners being in Dr Beger's view the *"antithesis of the Aryans who he had been looking for in Tibet"* directly related to Dr Beger since it was a view directly attributed to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation are detailed at Complaint 15 and the finding in relation to the use of the term Aryan is detailed at Complaint 20. Furthermore, and in light of the findings at Complaints 15 and 20, the Committee considered that the description of Dr Beger's view of the Jewish prisoners being the *"antithesis"* of the Aryans resulted in no unfairness to Dr Beger given his known membership of the SS, an organisation underpinned by a belief in racial purity and racial hierarchy, which was at the heart of the Holocaust.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 38

The Committee turned to Mr Croston's next complaint that the programme did not make clear that Dr Beger selected prisoners (at Auschwitz concentration camp) only for anthropological measurement and not to be put to death.

The Committee considered the full commentary reference complained of:

"At Natzweiler camp, near Strasbourg, the men and women selected by Beger are put to death."

The Committee considered that the reference, which referred to Dr Beger, directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. As discussed at Complaint 36 above the Committee noted the court transcript which stated that letters to Dr Beger from colleagues regarding the skeleton collection never spoke of the collection directly but did speak of "examinations" and "selection". In the Committee's view the commentary complained of did not attribute responsibility for the killing of the prisoners to Dr Beger. The Committee therefore found that the two references regarding the selection and deaths of prisoners were not misleading and therefore resulted in no unfair treatment of Dr Beger either separately or in conjunction.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 39

The Committee considered Mr Croston's complaint that the programme, which stated that: "*in 1971 Bruno Beger received a three year prison sentence as accomplice to 86 cases of murder*", did not state that he was given the minimum sentence of three years suspended because he had been 'entrapped by fate in mass murder and had not been involved out off condemnable motives'.

The Committee considered the full commentary reference complained of:

"In 1971, Bruno Beger received a three year prison sentence as 'accomplice to 86 cases of murder'".

The Committee considered that the reference, which referred to Dr Beger directly related to him. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. In the Committee's view the reference was a factually correct account and fair in stating that Dr Beger received a three year prison sentence as accomplice to 86 cases of murder. The Committee considered that there was no obligation on the programme makers to qualify this by reference to the nature of the sentence or the reasons for its length. The Committee therefore found that no unfairness to Dr Beger resulted from the reference.

The Committee's findings in relation to Dr Beger's reputation are detailed in the final paragraph of head d) below.

Complaint 40

The Committee considered Mr Croston's final complaint that the programme unfairly stated that the expedition attempted "*to make myth modern history*" when this conclusion could not be drawn from its plans or results.

The Committee considered the full commentary reference:

"It was the high point of the fatal quest to make myth modern history."

The Committee considered that the commentary reference, which was linked to footage of the Tibet expedition, was therefore indirectly related to him as a member of the expedition team. The Committee then considered whether it was likely that the audience would have been misled in a way that was unfair to Dr Beger. The Committee's findings in relation to the expedition's motivation are detailed at Complaint 15.

Furthermore, and in light of the finding at Complaint 15, the Committee considered, as discussed at Complaint 3 above, that the description of the expedition attempting to "*re-write*" or "*make myth*" history was fair given the strong link between the expedition, its members and the SS, an organisation underpinned by a belief in racial purity. The Committee had some reservations over the description of the expedition as the "*high point*" of Nazi attempts to re-write history since this did not appear to the Committee to be supported by evidence provided concerning the wider context of this period. However the Committee also noted the connection between the expedition and the Ahnenerbe, the ancestral heritage foundation set up by the leader of the SS, Heinrich Himmler discussed above at Complaint 5. In light of these considerations the Committee therefore found that the programme's portrayal of the expedition as an attempt to

“make myth history”, was not likely to have misled the audience in a way that was unfair to Dr Beger.

The Committees findings in relation to Dr Beger’s reputation are detailed in the final paragraph of head d) below.

Reputation

In relation to the numbered Complaints, 1 to 40 above, which related to Dr Beger, either directly or indirectly (all those except Complaints 11, 12, 29 and 32), the Committee considered whether the reference or allegation was capable of adversely affecting his reputation. The Committee took account of paragraph 7 of the Broadcasting Code which states that “Broadcasters should take special care when their programmes are capable of adversely affecting the reputation of individuals.” In the case of Complaints 18 and 35 this is also considered at the relevant complaint above.

In considering Dr Beger’s reputation the Committee had regard to the established facts concerning Dr Beger, namely his academic background in race studies, his membership of the Nazi Party, his service in the SS, his choice to work in the SS Race and Settlement Office and his conviction, following a war crimes trial in 1971, of being an accomplice to the murder of 86 Jewish people at Natzweiler concentration camp. The Committee also noted the supporting material provided by Channel 4 which related to Dr Beger’s knowledge of, and involvement in, Nazi policies. This material included a letter of April 13 1943, to Himmler’s personal assistant, in which Dr Beger wrote approvingly of “the complete extermination of the Jews in Europe, and beyond that, in the whole world if possible.”

The Committee found that in light of the established facts concerning Dr Beger discussed above, the references and allegations made in the programme were not capable of adversely affecting his reputation.

Accordingly, the complaint of unfair treatment was not upheld.

Other Programmes Not in Breach/Out of Remit

19 April - 3 May 2007

Programme	Trans Date	Channel	Category	No of Complaints
1Extra	-	1Extra	Advertising	1
3 Minute Wonder: The Hunt	11/04/2007	Channel 4	Animal Welfare	5
A Class Apart	23/03/2007	BBC1	Offensive Language	1
America's Next Top Model	26/03/2007	Living TV	Generally Accepted Standards	1
American Idol	27/04/2007	ITV2	Generally Accepted Standards	1
Animal Farm	19/03/2007	Channel 4	Animal Welfare	1
Animal Farm	16/03/2007	Channel 4	Generally Accepted Standards	1
Animal Farm	26/03/2007	Channel 4	Animal Welfare	1
Animal Farm	19/03/2007	Channel 4	Inaccuracy/Misleading	1
Animal Farm	19/03/2007	Channel 4	Due Impartiality/Bias	1
Animal Farm (trailers)	-	Channel 4	Generally Accepted Standards	1
BBC Breakfast	28/03/2007	BBC1	Offensive Language	1
BBC Breakfast	17/04/2007	BBC1	Generally Accepted Standards	1
BBC Breakfast	24/04/2007	BBC1	Inaccuracy/Misleading	1
BBC Local News	02/03/2007	BBC1	Sex/Nudity	1
BBC News	06/03/2007	BBC1	Generally Accepted Standards	1
BBC News	16/03/2007	BBC1	Generally Accepted Standards	1
BBC News	19/04/2007	BBC1	Generally Accepted Standards	6
BBC News	23/04/2007	BBC1	Due Impartiality/Bias	1
BBC News	05/03/2007	BBC1	Other	1
BBC News 24	19/04/2007	BBC News 24	Generally Accepted Standards	2
BBC News 24	28/04/2007	BBC	Due Impartiality/Bias	1
Balls of Steel	02/03/2007	Channel 4	Generally Accepted Standards	3
Balls of Steel	16/03/2007	Channel 4	Violence	1
Big Brother's Big Mouth	23/01/2007	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	23/01/2007	E4	Offensive Language	1
Blair: The Inside Story	23/03/2007	BBC1	Generally Accepted Standards	1
Book of the Week	16/03/2007	BBC Radio 4	Offensive Language	2
Bremner, Bird and Fortune	07/04/2007	Channel 4	Generally Accepted Standards	1
Bremner, Bird and Fortune	10/03/2007	Channel 4	Generally Accepted Standards	1
C4 promo	-	Channel 4	Generally Accepted Standards	1
Calendar News	14/02/2007	ITV1	Sex/Nudity	1
Cashtime	24/03/2007	Signal One	Competitions	1

Castaway	18/03/2007	BBC1	Generally Accepted Standards	1
Casualty	18/03/2007	BBC1	Generally Accepted Standards	1
Celebrity Big Brother's Big Mouth	22/01/2007	E4	Generally Accepted Standards	3
Celebrity Big Brother's Big Mouth	19/01/2007	E4	Generally Accepted Standards	2
Celebrity Big Brother's Big Mouth	26/01/2007	E4	Generally Accepted Standards	1
Celebrity Big Brother's Big Mouth	15/01/2007	E4	Generally Accepted Standards	3
Celebrity Big Brother's Big Mouth	14/01/2007	Channel 4	Offensive Language	1
Champions League Live	24/04/2007	ITV1	Due Impartiality/Bias	1
Champions League Live	01/05/2007	ITV1	Due Impartiality/Bias	1
Comic Relief - The Big One	16/03/2007	BBC1	Generally Accepted Standards	1
Comic Relief - The Big One	16/03/2007	BBC1	Offensive Language	1
Comic Relief Does Fame Academy	14/03/2007	BBC1	Generally Accepted Standards	1
Comic Relief Does Fame Academy	15/03/2007	BBC1	Religious Offence	1
Competition	15/02/2007	2BR	Competitions	1
Coronation Street	18/04/2007	ITV1	Generally Accepted Standards	1
Coronation Street	23/04/2007	ITV1	Generally Accepted Standards	1
Coronation Street	16/04/2007	ITV1	Generally Accepted Standards	2
Coronation Street	09/04/2007	ITV1	U18s in Programmes	1
Coronation Street	28/03/2007	ITV1	Generally Accepted Standards	1
Coronation Street	19/03/2007	ITV1	Generally Accepted Standards	3
Coronation Street	21/03/2007	ITV1	Generally Accepted Standards	1
Coronation Street	04/03/2007	ITV1	Generally Accepted Standards	1
Countdown	13/04/2007	Channel 4	Generally Accepted Standards	1
Danny & Nicky in the Morning	26/01/2007	Southern FM	Generally Accepted Standards	1
Deal Or No Deal	-	Channel 4	Competitions	1
Deal TV	20/04/2007	Deal TV	Advertising	1
Deal or No Deal	26/03/2007	Channel 4	Generally Accepted Standards	1
Derren Brown's Trick or Treat	13/04/2007	Channel 4	Generally Accepted Standards	1
Diamond Geezer	23/04/2007	ITV1	Generally Accepted Standards	1
Doctors	21/03/2007	BBC1	Generally Accepted Standards	1
Dominic Diamond's Breakfast Show	21/03/2007	XFM Scotland	Generally Accepted Standards	1
Don't Forget your Passport	20/03/2007	Sky Travel	Due Impartiality/Bias	1
ER	30/04/2007	Channel 4	Advertising	1

Eastenders	20/04/2007	BBC1	U18s in Programmes	1
Eastenders	19/04/2007	BBC1	U18s in Programmes	2
Eastenders	24/04/2007	BBC1	Generally Accepted Standards	2
Eastenders	27/03/2007	BBC1	Generally Accepted Standards	5
Eastenders	19/04/2007	BBC1	Generally Accepted Standards	5
Eastenders	23/04/2007	BBC1	U18s in Programmes	1
Eastenders	17/04/2007	BBC1	Offensive Language	1
Eastenders	09/03/2007	BBC1	Substance Abuse	1
Eastenders	20/04/2007	BBC1	Generally Accepted Standards	1
Eastenders Omnibus	11/03/2007	BBC2	Offensive Language	1
Emmerdale	15/03/2007	ITV1	U18s in Programmes	1
Emmerdale	01/02/2007	ITV1	Offensive Language	1
Emmerdale	17/04/2007	ITV1	Generally Accepted Standards	1
England v Italy U21	24/03/2007	Sky Sports	Generally Accepted Standards	1
Escape to the Country	13/03/2007	BBC1	Offensive Language	1
Evening Football	31/03/2007	Talksport	Generally Accepted Standards	1
F A Cup Replay	19/03/2007	Sky Sports 1	Generally Accepted Standards	1
F1: Bahrain Grand Prix Live	15/04/2007	ITV1	Advertising	3
F1: Bahrain Grand Prix Qualifying	14/04/2007	ITV1	Advertising	1
FTN - Quiz Night Live	28/04/2006	FTN	Competitions	2
FTN - Quiz Night Live	03/05/2006	FTN	Competitions	1
FTN - Quiz Night Live	19/05/2006	FTN	Competitions	1
FTN - Quiz Night Live	29/07/2006	FTN	Competitions	1
Football Match	31/03/2007	S4C	Due Impartiality/Bias	1
Fox News	01/01/2007	Fox News	Generally Accepted Standards	1
Foyle's War	15/04/2007	ITV1	Generally Accepted Standards	1
GMTV	13/03/2007	ITV1	Due Impartiality/Bias	1
GMTV	21/03/2007	ITV1	Due Impartiality/Bias	1
Gamers Guide to Playstation 3	25/03/2007	Bravo	Violence	1
George Galloway	24/02/2007	Talksport	Crime (incite/encourage)	1
George Galloway	11/04/2007	Talksport	Generally Accepted Standards	1
Get A Grip	04/04/2007	ITV1	Generally Accepted Standards	1
Get A Grip	18/04/2007	ITV1	Generally Accepted Standards	1
Gillette Soccer Saturday	10/03/2007	Sky Sports News	Generally Accepted Standards	1
Glitterball	05/04/2007	ITV1	Competitions	1
Glitterball	25/03/2007	ITV1	Competitions	1
Glitterball	21/03/2007	ITV1	Competitions	1
Grange Hill	15/03/2007	CBBC	Information/Warnings	1
Greatest Ever.....Machines	12/04/2007	Five	Generally Accepted Standards	2
Hairy Bikers Ride Again	22/03/2007	BBC2	Offensive Language	1

Hairy Bikers Ride Again	22/03/2007	BBC2	Generally Accepted Standards	1
Have I Got News For You	20/04/2007	BBC1	Generally Accepted Standards	1
Have I Got News For You	13/04/2007	BBC1	Generally Accepted Standards	1
Help! My Dog's as Fat as Me	05/03/2007	BBC3	Animal Welfare	1
Hirsty's Daily Dose	14/03/2007	Galaxy 105FM	Due Impartiality/Bias	1
Hollyoaks	17/04/2007	E4	Generally Accepted Standards	1
Hollyoaks	21/03/2007	Channel 4	Sex/Nudity	1
Hollyoaks	21/03/2007	Channel 4	Generally Accepted Standards	1
Hollyoaks	16/04/2007	Channel 4	Violence	1
Hollyoaks	13/04/2007	Channel 4	Generally Accepted Standards	1
Hollyoaks	16/04/2007	Channel 4	Generally Accepted Standards	3
Hollyoaks (trailer)	18/04/2007	Channel 4	Generally Accepted Standards	1
Home and Away	15/03/2007	Five	Offensive Language	2
Hotel Babylon	22/03/2007	BBC1	Animal Welfare	2
House	12/04/2007	Five	Advertising	1
How to Look Good Naked	01/05/2007	Channel 4	Sex/Nudity	1
Hustle	19/04/2007	BBC1	Scheduling	1
I Capture the Castle	14/04/2007	BBC2	Sex/Nudity	1
I Smack and I'm Proud	21/09/2006	ITV1	Violence	1
Relocation, Relocation (Sponsorship)	21/03/2007	Channel 4	Dangerous Behaviour	1
ITV News	31/01/2007	ITV1	Generally Accepted Standards	1
ITV News	23/04/2007	ITV1	Due Impartiality/Bias	1
ITV News	18/04/2007	ITV1	Generally Accepted Standards	1
ITV News	19/04/2007	ITV1	Generally Accepted Standards	1
ITV News	19/04/2007	ITV1	Due Impartiality/Bias	1
Ian Collins	06/02/2007	Talksport	Animal Welfare	1
India V Sri Lanka	23/03/2007	Sky Sports	Other	1
James O'Brien	18/04/2007	LBC 97.3FM	Generally Accepted Standards	1
James O'Brien	05/04/2007	LBC 97.3FM	Religious Offence	1
John Holmes	23/02/2007	LBC Radio	Dangerous Behaviour	1
Breakfast Show with Robin Banks	27/03/2007	Kiss 100	Generally Accepted Standards	1
Kung Fu Hustle (trailer)	19/04/2007	Film4	Violence	1
Live UEFA Champions League	03/04/2007	ITV1	Generally Accepted Standards	2
Loose Women	13/03/2007	ITV1	Generally Accepted Standards	2
Loose Women	27/03/2007	ITV1	Due Impartiality/Bias	1
Loose Women	27/03/2007	ITV1	Generally Accepted Standards	1
Loose Women	13/03/2007	ITV1	Generally Accepted Standards	1

Louis Theroux: Most Hated Family in America	01/04/2007	BBC2	Generally Accepted Standards	1
Match of the Day	17/03/2007	BBC1	Generally Accepted Standards	1
Midsomer Murders	25/04/2007	ITV1	Offensive Language	1
Midsomer Murders	22/03/2007	ITV1	Offensive Language	1
Midsomer Murders	13/04/2007	ITV1	Dangerous Behaviour	1
Mobile	19/03/2007	ITV1	Sex/Nudity	2
Most Shocking Police Videos	15/04/2007	Bravo	Generally Accepted Standards	1
Mum's Gone Gay	28/03/2007	Channel 4	Generally Accepted Standards	1
Mummy's War	29/03/2007	Channel 4	Generally Accepted Standards	2
Neighbours	20/03/2007	BBC1	Offensive Language	1
Neighbours	17/04/2007	BBC1	Generally Accepted Standards	1
Newsround	17/04/2007	BBC2	Generally Accepted Standards	1
Newsround	23/04/2007	BBC1	Generally Accepted Standards	1
On the Road (feature)	28/03/2007	Q102.9 FM	Dangerous Behaviour	1
One Tree Hill	20/04/2007	E4	Generally Accepted Standards	1
Panorama	23/04/2007	BBC1	Other	2
Panorama	30/04/2007	BBC1	Generally Accepted Standards	1
Paramedic Lottery: Tonight	16/04/2007	ITV1	Inaccuracy/Misleading	3
Paul Ross	19/04/2007	LBC 97.3	Generally Accepted Standards	1
Pop the Q	09/03/2007	TMF	Offensive Language	1
Prison Break	26/03/2007	Five	Violence	1
Quiz Call	-	Five	Competitions	1
Quiz Call	12/05/2006	Quiz Call	Competitions	1
Quiz Call	03/06/2006	Five	Competitions	1
Quiz Call	16/05/2006	Quiz Call	Competitions	1
Quiz Call	12/05/2006	Quiz Call	Competitions	1
Radio 4	07/04/2007	Radio 4	Religious Offence	1
Richard Bacon	12/02/2007	XFM	Generally Accepted Standards	1
Richard and Judy	19/03/2007	Channel 4	Animal Welfare	1
Richard and Judy	22/03/2007	Channel 4	Generally Accepted Standards	1
Richard and Judy	-	Channel 4	Competitions	1
Richard and Judy	16/03/2007	Channel 4	Sex/Nudity	1
Rick Wakeman	17/03/2007	Planet Rock	Generally Accepted Standards	1
Sarah Kennedy's Dawn Patrol	12/03/2007	BBC Radio 2	Generally Accepted Standards	1
Shark (trailer)	22/03/2007	Five	Generally Accepted Standards	1
Six Nations Rugby	17/03/2007	BBC1	Generally Accepted Standards	1
Six Nations Rugby promo	17/03/2007	BBC1	Generally Accepted Standards	1
Six Nations Rugby promo	18/03/2007	BBC1	Generally Accepted Standards	1

Sky News	07/02/2007	Sky News	Animal Welfare	1
Sky News	10/02/2007	Sky News	Generally Accepted Standards	1
Sky News	22/03/2007	Sky News	Generally Accepted Standards	1
Sky News	12/03/2007	Sky News	Generally Accepted Standards	1
Sky Sports News	18/03/2007	Sky Sports News	Generally Accepted Standards	2
So You Want To be a Success? (trailer)	09/02/2007	BBC1	Animal Welfare	1
Soapstar Superchef	22/03/2007	ITV1	Generally Accepted Standards	1
Stand Up Comedy	12/03/2007	Paramount	Generally Accepted Standards	1
Steve Yabsley on the Loose	16/03/2007	BBC Radio Bristol	Generally Accepted Standards	1
Stitch Up!	10/02/2007	CBBC	Generally Accepted Standards	1
Supernatural	20/03/2007	ITV2	Generally Accepted Standards	1
Supernatural trailer	10/03/2007	ITV	Generally Accepted Standards	1
Superskinny Me: The Race to Size Double Zero	22/04/2007	Channel 4	Generally Accepted Standards	2
The Anna Nicole Smith Story	01/04/2007	Channel 4	Generally Accepted Standards	2
The Anna Nicole Smith Story	01/04/2007	Channel 4	Sex/Nudity	1
The Apprentice	17/04/2007	BBC2	Generally Accepted Standards	1
The Apprentice	18/04/2007	BBC1	Commercial References	1
The Big Brum Breakfast	22/03/2007	BRMB 96.4	Generally Accepted Standards	1
The Bigger Breakfast	17/01/2007	City Beat 96.7FM	Generally Accepted Standards	1
The Bill	19/04/2007	ITV1	Offensive Language	1
The Bush and Troy Show	07/02/2007	GWR 96.3FM	Competitions	1
The Charlotte Church Show	23/03/2007	Channel 4	Offensive Language	1
The Dame Edna Treatment	17/03/2007	ITV1	Generally Accepted Standards	2
The Graham Norton Show	26/04/2007	BBC2	Undue Prominence	2
The Great Big Quiz	14/01/2007	Five	Competitions	2
The Great Big Quiz	13/01/2007	Five	Competitions	2
The Great Global Warming Swindle	08/03/2007	Channel 4	Other	1
The Hallmark Channel Quiz	21/02/2007	Hallmark Channel	Competitions	1
The Hot Rock	12/04/2007	Channel 4	Generally Accepted Standards	1
The Jeremy Kyle Show	26/03/2007	ITV1	Sex/Nudity	1
The Jeremy Kyle Show	27/03/2007	ITV1	Generally Accepted Standards	2
The Jeremy Kyle Show	20/04/2007	ITV1	Generally Accepted Standards	1
The Life of Brian	-	Channel 4	Religious Offence	1
The Moral of the Story	15/04/2007	ITV1	Due Impartiality/Bias	1

The OC	18/03/2007	Channel 4	Generally Accepted Standards	1
The Peep Show	20/04/2007	Channel 4	Offensive Language	1
The Simpsons	15/04/2007	Sky One	Generally Accepted Standards	1
The West Tonight	13/03/2007	ITV	Violence	1
The Wickes Weekend Breakfast Show	24/03/2007	Talksport	Generally Accepted Standards	1
The Wickes Weekend Breakfast Show	07/04/2007	Talksport	Generally Accepted Standards	1
The Wright Stuff	24/04/2007	Five	Generally Accepted Standards	2
The Wright Stuff	26/03/2007	Five	Generally Accepted Standards	1
The Wright Stuff	26/03/2007	Five	Due Impartiality/Bias	1
The X Factor: Battle of the Stars	30/05/2006	ITV1	Offensive Language	1
The X Files	-	Living	Scheduling	1
This Morning	29/03/2007	ITV1	Use of Premium Rate Numbers	1
This Morning	20/03/2007	ITV1	Generally Accepted Standards	1
Today	09/04/2007	BBC Radio 4	Due Impartiality/Bias	1
Tonight With Trevor McDonald	13/03/2007	ITV1	Due Impartiality/Bias	1
Tony Horne in the Morning	19/01/2007	Metro FM	Generally Accepted Standards	1
Totally Busted	23/02/2007	Playboy One	Sex/Nudity	1
Towers of London	12/01/2007	Bravo	Substance Abuse	1
Trial and Retribution	12/02/2007	ITV1	Violence	1
Trisha Goddard	19/04/2007	Five	Generally Accepted Standards	1
Vernon Kay's Gameshow Marathon	07/04/2007	ITV1	Use of Premium Rate Numbers	1
Weak at the Top	14/03/2007	BBC Radio 4	Offensive Language	1
Weak at the Top	14/03/2007	BBC Radio 4	Generally Accepted Standards	1
Wife Swap	15/04/2007	Channel 4	Generally Accepted Standards	3
Wild at Heart	18/03/2007	ITV1	Religious Issues	1
Xplicit TV	17/02/2007	Xplicit TV	Advertising	1
Yu-Gi-Oh!	28/02/2007	Nicktoons TV	Offensive Language	1